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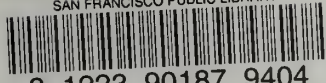
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OFFICE OF THE PUBLIC DEFENDER
CITY AND COUNTY OF SAN FRANCISCO
1987-1988 FISCAL YEAR

ANNUAL REPORT

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INTRODUCTION

This Annual Report is a statement of the work of the Public Defender's Office. It is a description of the jurisdiction of the office and a record of the expenditures, programs, program costs, and performance objectives for this department of city government.

The Public Defender represents people charged with crimes who do not have money to hire their own lawyers. Twenty thousand such people are represented every year. To carry out that responsibility, the Public Defender has a staff of 66 lawyers and 36 support personnel.

The Public Defender is responsible for seeing that each client is fully and competently represented. This requires the Public Defender to provide each client with a defense that works to the maximum legal advantage of that client. Whatever the Public Defender's status as a public officer, the Public Defender's primary duty and loyalty is to the client, no matter how grievous the charges and no matter how strong the evidence against that person.

The San Francisco Public Defender is elected: one of the few in this country. With that status comes certain responsibilities. First, as an elected official, the Public Defender is accountable to the public in terms of the quality of his administration. The public has a right to know the level of expertise, the nature of the

Public Defender's hiring, the efficiency of the office, the level of integrity, and honesty.

Second, as an elected official, the Public Defender has the duty to articulate the concerns he has about the overall quality of justice within the system. The elected Public Defender has a duty to be more than a passive player within the system. He must speak up as injustices occur--either in the working of the judicial system or in the legislative process. In that sense, the Public Defender must be a leader of public opinion.

Third, the elected Public Defender has a duty to protect the indigent defense system against negative public opinion or politically-motivated action. The Public Defender must never succumb to the temptation to put the interests of public opinion, or his own popularity, over the interests of the client.

Throughout this detailed report, we hope the reader keeps in mind the principal concern of this department: that every client receive the highest quality of representation. The task of every employee, whether department head or telephone operator, is to ask this question--"is there anything more, within reason, we could do for the man or woman who uses our services?"

The task of representing clients in this office involves much more than preparing a case and going to court. The task involves a delivery system where

coordination and management are critical. There are 102 employees, and the proper and efficient distribution of work assignments for each person is essential. In order to meet the demand of effectively representing each client's case, an administrative structure exists within which workload is distributed and work performance is closely supervised. A series of goals and objectives has been developed for the organization of the office. The goals address all activities of the office, and the objectives relate to all areas of supervision and management.

Each goal is a broad, organizing principle for action and for reflection about the work and about the conduct of the office. Each objective is a specific target which is measured four times a year.

The objectives have two functions:

1. To insure that the day-to-day work of each section of the office is being done (output objective)
2. To improve the quality of that work (performance improvement objective)

An example of a goal would be: "To insure the highest quality of representation." An example of an objective would be: "To handle 2,000 felony cases this year"

(output) or "to reduce state prison sentence" (performance improvement).

This Annual Report will be divided into discussion of each of the programs. The Report will describe the program costs, program objectives, and will explain how each of the objectives is measured. As a result, the reader will see the successes and shortcomings of the department. We also make specific recommendations for change.

OVERALL OFFICE GOALS

The overall goals of the office are:

1. To insure that each defendant receives competent and zealous representation
2. To maintain the highest professional and ethical standards on the part of each employee of the department
3. To insure that the delivery of legal services be as economical as possible without sacrificing the quality of those services
4. To maintain public respect for the public defender and the criminal justice system

Everything that is done in the Public Defender's Office is designed to bring about these goals. Every objective is a restatement of practical ways to achieve these goals.

I. JURISDICTION

Section 33 of the Charter:

[The Public Defender] shall immediately, upon the request of a defendant who is financially unable to employ counsel, or upon order of the court, defend or give advice to a person charged with the commission of a crime.

The Public Defender is a creature of the Charter of the City and County of San Francisco. The Charter provides that the Public Defender will represent persons who have been charged with criminal offenses and who are without funds to pay for a privately-retained lawyer.^{1/}

In addition to this specific grant of power by the Charter, the California Government Code also authorizes counties, such as San Francisco, to establish public defender offices.^{2/} The Government Code sets forth the types of cases which can be handled by a County Public Defender. These include:^{3/}

- (1) Criminal cases upon request of the defendant or by appointment of the court;
- (2) Contempt cases;
- (3) Appeals;

^{1/} Charter Section 33

^{2/} Government Code Section 27706

^{3/} Ibid.

- (4) Actions for the collection of wages or other demands against a person for under one hundred dollars;
- (5) Defense of individuals in civil litigation where a person is being harassed or persecuted;
- (6) Cases involving mental health guardianships and conservatorships;^{4/}
- (7) Juvenile cases.

The Welfare and Institutions Code also provides for the appointment of attorneys for indigent parents whose custody rights to their children are being subjected to proceedings for suspension or for termination of those rights.^{5/}

The law, thus, provides for public defender representation in a wide spectrum of activities. Although the great bulk of the office's activities are in the criminal courts, the office is also quite active in representing persons in mental health and in juvenile cases.

^{4/} Probate Code Section 1471 also provides for public defender appointment in probate guardianships under specified conditions.

^{5/} Sections 634 and 317 of the Welfare and Institutions Code. On August 1, 1988, the Public Defender discontinued representation in cases of parental rights. The reason for this action was the cut in funding and loss of budgeted attorney positions.

II. OFFICE STRUCTURE, STAFF, BUDGET, AND WORKLOAD

1. Office Structure

The executive officer of the Public Defender's Office is the Public Defender. The Public Defender is elected every four years. The Public Defender appoints all Deputy Public Defenders and a Confidential Secretary.^{6/} These employees serve at the pleasure of the Public Defender. The balance of the staff, which includes investigators, secretarial, and other support personnel, are selected through Civil Service rules.

The Chief Attorney is the second executive officer of the department. The Chief Attorney is the person to whom all other supervisors directly report. The Chief Attorney is Acting Public Defender should the former leave the state.

There are seven administrative units in the Public Defender's Office. Six of these seven relate directly to legal representation and are under the direction of supervising attorneys. These include:

- (1) Misdemeanor Unit: 17 attorneys in 6 Municipal Courts.
- (2) Felony Unit: 34 attorneys in both the Municipal Court (Felony Division) and in the Superior Court.
- (3) Mental Health Unit: 3 attorneys, 2 investigators.

^{6/} Charter Section 3.47

- (4) Juvenile Unit: 7 attorneys, 1 investigator, 2 social workers, 3 clerical-secretarial personnel.
- (5) Research Unit: 2 attorneys and 1 paralegal.
- (6) Investigative Unit: 1 head attorney as supervisor, 9 investigators, 3 clerks.
- (7) Administrative Unit: 1 executive assistant, 1 accounts coordinator, 15 clerical personnel.

2. Staff

A breakdown of the Office by class and job title is:

Attorneys	66
Investigators	12
Executive Assistant	1
Fiscal/Budget Coordinator	1
Legal Sec. I	3
Secretary I	2
Junior Clerk	1
Clerk Typist	1
Senior Clerk Typist	2
Telephone Operator	2
Senior Legal Process Clerk	2
Legal Process Clerk	6
Legal Assistant	1
Court Alternative Specialist I	<u>2</u>
	102

TABLE A

Cost Breakdown

	(87-88)	(88-89)
Salaries	\$5,124,437.00	\$4,951,444.00
Fringes	<u>1,228,217.00</u>	<u>1,219,120.00</u>
Salaries and Fringes Subtotal	\$6,352,654.00	\$6,170,564.00
Expert Witness	143,700.00	143,700.00
Professional Services	15,000.00	6,000.00
Contracted Services	45,000.00	45,000.00
Travel	600.00	--
Other Services	6,000.00	6,000.00
Telephone	75,400.00	75,400.00
Material and Supplies	20,218.00	30,000.00
Membership Dues	200.00	200.00
Rental of Property	445,800.00	485,136.00
Equipment Purchase	4,000.00	6,000.00
Police Dept. (use of Wang Word Proc.)	118,223.00	128,527.00
Electricity	70,230.00	17,220.00
Central Shop	15,000.00	15,000.00
Management Training	610.00	610.00
Juvenile Court	16,788.00	16,788.00
Reproduction	2,500.00	3,000.00
Other Costs	<u>4,563.00</u>	<u>26,361.00</u>
Subtotal ---	\$ <u>983,332.00</u>	<u>\$1,004,942.00</u>
Total Costs -	<u>\$7,335,986.00</u>	<u>\$7,175,506.00</u>

3. Budget

Table B sets forth the rise in the Public Defender budgets from FY 78-79 to the present. Before FY 82-83, a large portion of the salary costs for personnel was borne by federal programs. With the federal government's elimination of the Comprehensive Emergency Training Act (CETA) and with the further federal cutback of Title II Community Development money, the City and County virtually absorbed the cost of Public Defender's Office, causing a rise in the City's portion of this budget. Since FY 82-83, the rise has reflected only those cost increases mandated by the city charter. In FY 86-87, our costs took a sharp rise due to charter-mandated costs and to the cost of renting new premises. During FY 87-88, the office sustained a decrease in its budget of 2.1%. This decrease was largely due to the elimination of three attorney positions.

TABLE B

Comparative Budgets 1978-88

<u>Year</u>	<u>Ad Valorem</u>	<u>C.E.T.A.</u>	<u>Title II</u> <u>(Community</u> <u>Development)</u>	<u>A.B. 90</u>	<u>Total</u>
78-79	2,201,463	Not avail.		66,000	Not avail
80-81	2,207,211	528,892	162,076	73,739	2,971,918
81-82	2,938,032	416,125	206,573	52,751	3,613,481
82-83	4,415,465			71,000	4,486,465
83-84	5,026,091			73,000	5,099,091
84-85	5,896,139			83,803	5,979,942
85-86	6,513,822			91,403	6,605,225
86-87	6,536,937			91,403	6,628,340
87-88	7,246,583			91,403	7,337,986
88-89	7,093,703			91,403	7,185,106

4. Program Costs

Table C represents a salary cost for each program or each administrative unit within the Public Defender's Office.

TABLE C

Public Defender, Chief Attorney, and Administration

	\$ 285,516.00
	<u>456,633.00</u>
	\$ 742,149.00
Felony	\$2,323,377.00
Misdemeanor	1,081,065.00
Mental Health	387,949.00
Juvenile	712,103.00
Research	224,799.00
Investigation	<u>699,122.00</u>
Total	<u>\$6,170,564.00</u>

5. Summary of Caseload

TABLE D

	<u>Recent Caseloads</u>				
	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>
<u>Felonies</u>					
Superior Court	1,493	1,338	1,540	1,576	2,114
Municipal Court	4,152	4,256	4,649	4,977	5,660
	<u>5,645</u>	<u>5,594</u>	<u>6,189</u>	<u>6,553</u>	<u>7,774</u>
Less cases held to answer or certified	<u>1,434</u>	<u>1,073</u>	<u>1,304</u>	<u>1,388</u>	<u>2,041</u>
TOTAL	4,211	4,521	4,885	5,165	5,733
<u>Misdemeanor</u>	7,777	9,158	10,630	9,963	8,953
<u>Juvenile Cases</u>					
Juveniles	2,211	2,010	1,927	2,054	2,501
Adults	395	522	869	825	806
TOTAL	<u>2,606</u>	<u>2,532</u>	<u>2,796</u>	<u>2,879</u>	<u>3,307</u>
<u>Mental Health</u>	4,052	4,100	3,546	5,242	5,082

6. Comparison of Caseload

The following is a breakdown of the Public Defender caseload for a nine-year period.

TABLE E

Caseloads 1978 - 1988

<u>Year</u>	<u>Felony</u>	<u>Misdemeanor</u>	<u>Mental Health</u>	<u>Juvenile</u>	<u>Total</u>
78-79	5,329	12,855	2,601	2,040	22,825
79-80	5,346	9,654	1,470	2,895	19,365
80-81	5,450	10,431	1,381	2,418	19,680
81-82	5,963	11,762	1,054	2,598	21,377
82-83	5,769	9,593	3,080	2,626	21,068
83-84	4,211	7,569	4,052	2,606	18,438
84-85	4,521	9,158	4,100	2,532	20,311
85-86	4,885	10,630	3,546	2,796	21,857
86-87	5,165	9,963	5,242	2,879	23,249
87-88	5,736	8,953	5,082	3,307	22,975

III. EXECUTIVE OFFICERS - PUBLIC DEFENDER
AND CHIEF ASSISTANT

Program Cost: \$285,516

Program Goals:

1. To provide overall leadership
2. To supervise the expenditure of money and use of resources
3. To supervise the Head Attorneys in their management of attorneys and caseloads
4. To develop policies and procedures
5. To make appointments for discretionary and civil service position
6. To evaluate the implementation of all office policies and duties
7. To maintain contacts with other city and state agencies that affect the work of the Public Defender
8. To provide public education about the work of the Public Defender and the work of the criminal justice system
9. To insure a high ethical standard in the performance of Public Defender duties

With the elected official, who is the Public Defender, the "buck stops here." The ultimate responsibility for the entire operation is upon the person

of the Public Defender. As such, the Public Defender must clearly define the duties and the goals of the department and see that these are carried out.

The Chief Attorney is the chief executive officer who assists the Public Defender in the development of policies and procedures. In addition, the Chief Attorney has direct responsibility for the execution of those policies and proceedings. The Chief Attorney is the link between policy making and the line work of the office.

A major part of the Public Defender's function is to lobby the Mayor and the Board of Supervisors for the budgetary needs of the office. The Public Defender must develop the office budget and must work to see that the budget is approved.

The Public Defender also must educate the public at large about the function of the defense attorney in the criminal justice system. A large amount of the Public Defender's time is spent answering inquiries about critical issues which affect the criminal justice system. It is an understatement to say that those issues, whether they relate to drunk driving, or to child abuse, or to the decisions of the California Supreme Court, are matters of passionate debate.

The Public Defender must have the courage to enter that public debate and must provide an informed view, no

matter how unpopular that view may be. As the National Legal Aid and Defender Commentary to Standard 3.5 put it:

. . . (the director of a defense system) has a duty in terms of public education which, if he fulfills it, will need to give him the kind of support that can be expected to arise out of the more decent instincts of citizens of a society dedicated to democracy and fair play. If he will approach the community, not as an apologist for his performance, but as an interpreter and reinterpreter of free society's own mandates concerning its constitutional guarantees; if he will approach this giant jury with the same skill that it is hoped that he approaches a petit jury, he will not only give strength to the foundations and structure of his own office but will do much to enhance that of the judicial process as a whole.

IV. ADMINISTRATION

Program Cost: \$456,633

Program Goals:

1. To provide clerical, secretarial services for the office
2. To provide data collection
3. To prepare payroll and process the expenditures for office

The Administrative Unit is managed by Sharon Christensen, the Executive Assistant. The unit consists of five components:

1. Word Processing (2 legal secretaries, 3 senior clerk typists)
2. Senior Legal Process Clerks (2 persons)
3. Legal Process Clerks (6 persons)
4. Accountant (1 person)
5. Reception Area Workers (2 telephone operators)

The work of these support personnel is critical to the operation of the Public Defender's Office. Without them, the lawyers could not function. Just as important, the Administrative Unit personnel provide an environment for the clientele and the public. If phones are answered, if documents are produced in a timely fashion, if the public is treated with courtesy, the work of the office will improve. If people are impressed that support personnel can effectively handle their questions and problems, the public will view the Public Defender's Office as a resource, not just another bureaucracy. As public attitude and funding correspond to the performance of the office, so the morale of the employees of the office corresponds to the public attitude. Good morale equals high performance--an equation that yields a net positive to the City and the Public Defender's Office.

V. FELONY UNIT

Program Cost: \$2,323,377

Program Goals:

1. To provide effective legal assistance in all felony cases in the Municipal and Superior Courts
2. To decrease the number of cases where the client is held to answer for a felony
3. To decrease the number and length of state prison sentences
4. To reduce felony conflicts

The Felony Unit consists of 34 attorneys. The unit handles over 5,000 felony cases in the Municipal and Superior Court. It is supervised by two Head Trial Attorneys, Robert Berman and Daro Inouye.

The work of the attorneys in this unit begins in the Municipal Court, where a felony defendant is arraigned on a charge. The court makes a determination whether the individual defendant can afford his/her own attorney; and if he/she cannot, the court will appoint a Public Defender. The Public Defender will then make appropriate bail/O.R. motions and set a date for a preliminary hearing. At the preliminary hearing, the prosecution will attempt to show that there is enough evidence to hold the defendant to answer in a trial to be held later in the Superior Court.

The San Francisco Public Defender's Office is uncommon in its handling of felony cases. The independence of the office gives it the freedom to employ a "vertical representation system" in defending its clients. This means that the same lawyer represents the client throughout legal proceedings in both the Municipal and Superior Courts. The value of this system lies in its humanness and consistency. Defendants are not passed from attorney to attorney like so much baggage, but receive personal and individual attention and service from the same attorney at all phases of the process.

Vertical representation insures the consistent handling of the defendant's case throughout the life of the case. It makes the attorney fully accountable to the client for all decisions and actions on the client's behalf. This accountability is an incentive for the attorney to give his or her best efforts toward the client's cause.

The alternative process of "horizontal representation" leads to buck passing and impersonal legal representation, because the client has a different attorney in every phase of the case. In a "horizontal" system, the Public Defender emphasizes the processing of, not defending, clients. It is a system that serves the court and the courts' preoccupation with the calendar.

Table F represents the workload and the disposition of cases of the Felony Unit from FYs 82-83 to 87-88.

TABLE F
Public Defender Felony Cases
Municipal Court Felonies

	<u>82-83</u>	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>
Arraigned	4,152	5,175	4,256	4,649	4,977	5,660
Held to Answer	918	815	913	659	648	856
Certified Pleas	530	533	446	645	740	1,182

Activity and Disposition of Superior Court Cases

a. <u>Case Activity</u>	<u>82-83</u>	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>
Sentences	1,753	1,528	1,338	1,540	1,576	1,916
b. <u>Case Disposition</u>						
State Prison	479	490	524	470	512	531
Probation	1,079	815	549	831	976	1,385
Dismissals	193	198	233	218	154	165
Other	181	25	32	24	34	34
c. <u>Trial Activity</u>						
Total Cases	109	80	98	96	108	97
Guilty Verdict	46	35	63	58	58	76
Acquittals	40	16	20	19	36	9
Hung Juries	23	29	15	19	14	12

There are several points that should be emphasized by those statistics:

1. The Caseload Is Very High

The caseload rose appreciably during the last year in every sector of the felony work of our office. There were more arraignment in the felony courts in the Municipal Court, more motions to revoke, and heavier individual caseloads for attorneys. At various points, the caseload reached levels beyond the capacity of lawyers to perform in an adequate manner on behalf of their clients. It was at that point we have had to decline to represent cases in other areas, like dependency cases.

What is especially troubling about this caseload is that it has remained high for a continuous, sustained period with almost no respite. The trial calendar for the last year has averaged over 200 cases per day. The constant grind of vast quantities of cases coming into the system create serious stress and fatigue problems for members of the staff. The work of the attorneys during this last year in the face of high caseloads was simply heroic.

2. State Prison Commitments Remain High

Approximately 27% of Superior Court sentences now carry a prison term. The phenomenon that we notice with our own cases is also true of private attorneys and

commitments. In 1987, San Francisco's prior commitment rose 10%; whereas statewide, it rose 13% over the previous year.

TABLE G

State Prison Commitments

1) Persons

Year	San Francisco	California
1979	525	9,874
1980	593	11,347
1981	841	13,932
1982	724	15,932
1983	634	18,398
1984	646	17,602
1985	880	20,543
1986	846	23,466
1987	933	26,535

(Source: California Department of Corrections)

2) Cases

Year	San Francisco	California
1979	517	8,878
1980	467	10,311
1981	795	13,971
1982	759	25,122
1983	756	16,677
1984	841	18,094
1985	938	21,421
1986	858	24,210
1987	883	25,029

(Source: Adult Felony Dispositions-Department of Justice)

3) Prison Commitments Per 100 Convictions

<u>Six Months Ending</u>	<u>State</u>	<u>Quarter Ending</u>	<u>State</u>
6-12/31/77	29%	3/31/84	40%
1-6/30/78	33%	6/30/84	41%
7-12/31/78	34%	9/30/84	42%
1-6/30/79	34%	12/30/84	42%
7-12/31/79	34%	3/31/85	43%
1-6/30/80	35%	6/30/85	43%
7-12/31/80	36%	12/31/86	42%
1-6/30/81	37%	3/30/86	43%
		6/30/86	41%
		9/30/86	43%
		12/31/86	44%

(Source: Judicial Council)

4) Public Defender Cases - Commitments To State Prison

Felony Dispositions

1978-79	402	NA
1979-80	390	NA
1980-81	538	NA
1982-83	479	30%
1983-84	490	37.5%
1984-85	524	48.8%
1985-86	420	36.1%
1986-87	512	34.4%
1987-88	531	26.7%

2. There Has Been A Noticeable Change In The Way Plea Bargaining Is Conducted

As our statistics indicate, a high percentage of felony pleas occur at the Municipal Court level. We call these certified pleas--pleas are taken by a Municipal Court judge and certified to the Superior Court (see Table F; Appendix, 3 and 4).

In other annual reports, we have written of our distress with this process. We know that pleas taken so early in the process are more likely to be done without full investigation and consideration of the merits of the case. However, there are reasons why certified pleas have become such a prominent part of criminal law practice.

For one thing, the penalties associated with felony cases are so serious that district attorneys can offer a reduction in potential sentences in exchange with an early plea.

For another, Proposition 8 restricts and discourages plea bargaining in the Superior Court. In many cases, the Municipal Court is the only forum for the negotiation and acceptance of a plea of guilty.

3. There Is An Increase In The Number Of Jury Trials

In recent years, we, in the Public Defender's Office, have made it a policy to fight cases in the face of severe penalties.

An office that fails to try its share of cases is an office that has lost the will to fight for the client. It is an office that lacks credibility, because the prosecution knows that its attorneys will "roll over" rather than defend the client's interests. This does not mean that individual attorneys should encourage clients to go to trial in cases where the evidence against the client are great, and where a plea bargain would lessen the exposure to a more severe sentence. But it does mean that a trial must be held if a prosecutor fails to create a substantial incentive to engage in a plea agreement.

VI. MISDEMEANOR UNIT

Program Cost: \$1,081,065

Program Goals:

1. To represent indigent defendants in misdemeanor cases in the Municipal Court
2. To limit the number of misdemeanor convictions
3. To try as many misdemeanor cases as is necessary to protect the interests of the clients

The Misdemeanor Unit consists of 17 lawyers. It is supervised by Head Trial Attorneys Robin Levine and Ron Albers. The unit handles cases in six departments of the Municipal Court. As such, it carries a tremendous caseload--roughly 9,000 cases a year.

Misdemeanor offenses carry a maximum sentence of six months or a year in the county jail and a fine of between \$500 and \$1,000, depending on the charge.

The misdemeanor courts deal with an enormous variety of offenses--from public drunkenness to auto burglaries and aggravated assaults. Table H indicates the work of the court.

TABLE H

Misdemeanor Unit Cases

	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>
Misd. cases	7,165	9,158	9,614	8,786	7,866
Motion to revoke	612	802	1,024	1,177	1,087
	<u>7,777</u>	<u>9,960</u>	<u>10,638</u>	<u>9,963</u>	<u>8,953</u>

A matter of particular concern is the number of jury trials. Large-scale defense operations can develop a "cop-out" mentality ever goes to trial. The routine of plea bargaining becomes almost mesmerizing, and jury trials become a departure from that routine. The net effect is that jury trials decline as an institution, because lawyers and judges are too lazy or too afraid to make the additional effort of preparation for the trial.

Table I indicates the jury trial activity over the past nine years.

TABLE I

	<u>Misdemeanor Jury Activity</u>				
	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>	<u>82-83</u>
Convicted	87	85	135	78	92
Acquitted	n/a	37	58	38	42
Hung Mis.	n/a	30	38	26	40
		18	39	14	12
	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>
Convicted	80	91	96	107	112
Acquitted	--	56	58	58	58
Hung Mis.	--	20	19	36	36
		15	19	13	17

The most important result for an attorney in criminal cases is the dismissal of his/her client's case. Over the many years, the number of cases thrown out by the District Attorney or the court is high--it has ranged from 35-40% in the misdemeanor area. A high percentage are dismissals after a plea of not guilty is entered. A portion of the dismissals result when defense and prosecution agree to defer prosecution and, instead, have the defendant divert from the criminal justice system for a specified period. If the defendant completes a period of community service work and stays out of trouble, the court enters a dismissal.

Table J sets out the pattern of dismissals and diversions since FY 78-79.

TABLE J

Fiscal Year Comparisons - Misdemeanor Unit

<u>Year</u>	<u>New Cases</u>	<u>Dismissals</u>	<u>Diversions</u>
87-88	7,866	1,652	974
86-87	8,786	2,202	1,277
85-86	9,164	2,080	962
84-85	9,158	2,165	967
83-84			
82-83	8,375	2,522	1,483
81-82	9,826	2,473	2,137
80-81	8,622	3,404	1,198
79-80	8,395	3,433	577
78-79	12,136	Not av.	Not av.

VII. JUVENILE UNIT

Program Cost: \$712,103

Program Goals:

1. To represent juveniles in delinquency cases and in cases where the District Attorney seeks to exclude juveniles from the juvenile justice system
2. To represent adults whose parental rights are being suspended or terminated

The Public Defender's Office represents juvenile clients in the Juvenile Court at the Youth Guidance Center. The juvenile court unit of the office has a staff of seven attorneys, one investigator, two social workers,

and three clerical-secretarial personnel. The unit is supervised by Head Trial Attorney Joseph L. Spaeth.

Most of the Public Defender juvenile clients are charged with having committed offenses which, if the juveniles were adults, would be crimes. In these proceedings, the District Attorney files a petition pursuant to Section 602 of the Welfare and Institutions Code. The case is later heard before a referee or before a Superior Court judge.

The Public Defender also represents other juveniles who are alleged to have behavior problems. These juveniles are not charged with committing any acts which would be criminal in adult courts. Typically, these are children who are charged with truancy, with curfew violations, or with being beyond parental control. These are called "status" offenders. Petitions pursuant to Section 601 of the Welfare and Institutions Code are filed in these cases. If these petitions are granted, the child is taken from the control of his or her parents.

In certain criminal-type cases, the District Attorney will attempt to exclude a juvenile from the juvenile court process and to have the juvenile prosecuted as an adult in an adult criminal court (pursuant to Section 707, et seq., Welfare and Institutions Code). Before that action is taken, the juvenile receives a

hearing on whether or not it is proper to have the juvenile tried as an adult.

The Public Defender had until September, 1988 represented parents in Juvenile Court, where the Department of Social Services attempts to suspend or to terminate the parents' custody over their children. However, with the loss of three positions from our FY 88-89 budget, we were unable to represent competently the same number of clients. Since parental-custody cases were the only non-mandatory part of our caseload (that is, the only one in which we were not required by law to represent a client), we felt that we must discontinue to represent clients in that area of the law.

The Public Defender must be a forceful and a zealous advocate for the protection of the rights of the juvenile. Juvenile cases are adversary proceedings, and the attorney must use all of his talents in presenting the factual and the legal defenses on behalf of the juvenile client. At the same time, the Public Defender must also be sensitive to the special problems confronting a juvenile offender. Attorneys in the juvenile courts must be able to identify emotional and educational difficulties and to explore the alternative which exist outside of the legal system. The lawyers must utilize fully all of the

community-based agencies which provide social or psychiatric assistance.

TABLE K
Juvenile Statistics
Fiscal Year Comparisons

1. Caseloads--Public Defender

<u>Year</u>	<u>601</u> (Delinquency)	<u>602</u> (Criminal)	<u>707</u> (Removal to Adult Jurisdiction)	<u>300</u> (Dependency)	<u>Total</u>
78-79	127	2,119	NA	225	2,471
79-80	141	1,410	19	325	1,895
80-81	145	2,118	15	197	2,475
81-82	130	2,470	12	202	2,823
82-83	89	2,217	8	320	2,634
83-84	30	2,181	0	39	2,250
84-85	66	1,944	5	522	2,537
85-86		1,927	2	869	2,798
86-87		2,054	1	825	2,880
87-88		2,501	2	806	3,309

2. Commitments to CYA--Public Defender Cases

78-79 --- 96	83-84 --- 86*
79-80 --- 81	84-85 --- 31
80-81 --- 89	85-86 --- 36
81-82 --- 90	86-87 --- 16
82-83 --- 65	

3. Commitments to Log Cabin--Public Defender Cases

79-80 --- 136	83-84 --- 113*
80-81 --- 95	84-85 --- 128
81-82 --- 102	85-86 --- 130
82-83 --- 103	86-87 --- 123
	87-88 --- 97

*All cases--P.D. and non-P.D. cases.

MBO OBJECTIVES

1. To represent juveniles in at least 2,200 cases petitioned under Sections 601, 602, and 707 W&I Code and 300 adults in Section 300 W&I Code proceedings

Our statistical findings parallel those of the Department of Justice and the Judicial Council (see Table L):

TABLE L

Juvenile Court Caseloads and Filing (All Cases

1. Department of Justice: Active Juvenile Probation Caseload 1972-1981

1972 - 1,997	1977 - 1,144	1982 - 1,385
1973 - 1,956	1978 - 1,119	1983 - 1,348
1974 - 2,004	1979 - 1,333	1984 - 1,208
1975 - 1,940	1980 - 1,313	1985 - 1,291
1976 - 1,837	1981 - 1,259	1986 - 1,287
		1987 - 1,255

2. Judicial Council Reports: Juvenile Court Filing

<u>Year</u>	<u>Total Filings</u>	<u>Original Filings</u>	<u>Subsequent Filings</u>	<u>Contested Matters</u>	<u>601 W&I</u>	<u>602 W&I</u>
76-77	2,355	1,597	758	480	209	2,098
77-78	2,017	1,484	533	437	172	1,815
78-79	2,130	1,467	653	516	93	2,026
79-80	2,116	1,426	690	621	132	1,979
80-81	1,933	1,178	755	556	119	1,456
81-82	2,295	1,388	907	530	87	1,301
82-83	2,356	1,128	1,030	305	49	1,254
83-84	2,158	1,278	1,078	270	71	1,083
84-85	1,982	1,533	449	235	19	1,518
85-86	1,981	1,618	363	221	16	1,966
86-87	1,730	998	732	262	34	1,690
87-88	NA	NA	NA	NA	NA	NA

This last year the caseload of the Public Defender's Office, after years of remaining stable, shot up to its highest point since we have been measuring it. This increase reflects, in the opinion of all concerned, the huge number of "crack" cocaine arrests. The overall arrests in narcotics rose over 80%, and these arrests in disproportionate numbers result in juvenile filings and detentions.

2. To utilize social work in at least 225 delinquency cases

The Juvenile Unit employs two full-time social workers. They interview clients, render evaluation, and provide dispositional plans. They do this work in 601, 602, and 707 W&I cases. Their work has been successful in reducing log cabin and CYA commitments and in persuading the court not to exclude the juvenile from the juvenile system.

The Public Defender social workers have an important advantage: the information is conveyed within the setting and the protection of the lawyer-client relationship. Thus, the client and the client's relatives are more likely to speak candidly about their problems. Accordingly, the social worker is better able to make an accurate diagnosis and an appropriate plan for treatment or assistance.

3. To involve community-based agency participation in at least 120 cases

There exists a rich network of community-based agencies, many existing on private funding, others on public and quasi-public funding. They have trained counselors and instructors and they serve specialized clientele; i.e., Hispanic youth in the Mission by "Real Alternatives". Currently, the office makes good use of these programs; the office will continue to increase its involvement with these groups.

The use of these agencies is a healthy alternative to incarceration in juvenile hall, log cabin, or CYA. These agencies provide guidance in educational, emotional, and behavioral problems for young people; whereas custody hardens young people, isolates from the mainstream, and tends to criminalize them.

4. To limit the number of 707 W&I certifications to 10

The exclusion of the juvenile offender from the juvenile justice system is a drastic step. It means that the youth is punishable in the same way that an adult is and can suffer the state prison sentences for lengthy terms.

A youth charged with certain crimes, like murder, robbery, rape, will be presumed to be unfit for the juvenile justice system. These crimes are listed in

Section 707b. Youth who are charged with all other offenses, not set forth in Section 707b, are not presumed; and the burden is on the prosecutor to establish unfitness.

The Public Defender has made every effort to keep youth charged with crimes, even serious crimes, within the juvenile justice system.

We feel that rarely, if ever, are youthful offenders "helped" by adult punishment or deterred from further criminality. The youth is merely hardened or criminalized further by exposure to the world of the adult offender. We feel, too, that adult treatment is never really carried out--the juvenile remains largely isolated from adults and held in separate facilities--whether in the county jail or state prison. And there is a final irony: most of those excluded from the juvenile court end up going to the California Youth Authority after being tried and sentenced as an adult.

Fortunately, we held the total number of 707 W&I exclusions in FY 87-88 down to just two cases.

Dependency Cases

The withdrawal of the Public Defender's Office from dependency cases involving parental custody rights was necessitated by extreme, budgetary considerations. Over the last eighty years, the area has grown to become an

important part of the work of this office. The office developed an expertise and a specialty capability and provided its representation on cost-efficient basis.

Today, sadly, that expertise is dormant. Today, the Superior Court must appoint private counsel to do the work previously performed by deputy public defenders at more than twice the cost.

It is clear that the Public Defender should re-enter the area of dependency.

VIII. MENTAL HEALTH UNIT

Program Cost: \$387,949

Program Goals:

1. To represent those alleged to be mentally ill in conservatorship proceedings
2. To represent the retarded in progress related to their treatment and placement
3. To represent the insane in proceedings for the restoration of their sanity

The Public Defender is the principal attorney in the community for the mentally ill. Most of the work of the Mental Health Unit is done in the defense of petitions to establish mental health conservatorships pursuant to Section 5500 of the Welfare and Institutions Code. This conservatorship petition is the legal procedure for establishing judicial control over a person who is alleged

to be a danger to himself or others or who is gravely disabled to the extent of lacking the ability to provide food, shelter, and care for himself/herself. If the petition is granted, an individual may be placed in a state hospital or in a local facility, whichever the court deems appropriate.

In these cases, the Public Defender is appointed to represent the proposed conservatee. As the attorney for the proposed conservatee, the Public Defender must review the medical reports, witnesses, and explore alternative placement if the client contests the hearing.

The Mental Health Unit also represents mentally-ill clients who have been sent to state hospitals. These involve conservatees committed under Section 5500 of the Welfare and Institutions Code who have a right to periodic review of their status and their treatment, clients who have been found incompetent to stand trial under Sections 1368-70 of the Penal Code, those who have been found not guilty by reason of insanity under Section 1027 of the Penal Code, mentally disordered sex offenders pursuant to Section 6300 of the Welfare and Institutions Code, and mentally retarded dangerous persons under Section 6500 of the Welfare and Institutions Code.

These clients must be regularly visited and interviewed. If the state hospital makes an inappropriate

recommendation for a patient, the Public Defender must bring that fact to the attention of the court. If it is necessary, a jury trial may be held to determine whether or not a person should be kept in a state hospital or whether or not his/her parole should be revoked.

TABLE M

Summary of Mental Health Unit's Work

Statistics Fiscal Year 1987-88

14-Day Certification			2,997
Writs of Habeas Corpus -----	Granted	13	
	Denied	53	
	Withdrawn	49	
	TOTAL CASES		115
New Conservatorships -----	Granted	278	
	Denied	709	
	TOTAL CASES		987
Conservatorship Renewals ----	Granted	526	
	Denied	193	
	TOTAL CASES		719
Rehearings -----	Released	3	
	Held	20	
	Withdrawn	16	
	TOTAL CASES		39
Medical Consents -----	Granted	31	
	Denied	7	
	TOTAL CASES		38
Electroshock Hearings -----	Granted	7	
	Denied	1	
	TOTAL CASES		8

Progress Reports		26
Change Conservator Hearings		18
Placements Hearings		
Placement change ordered	33	
Placement remained	25	
	TOTAL CASES	58
Probate Code 3200 Cases		19
Jury Demands		7
	TOTAL CIVIL CASES	5,031
Penal Code Section 1026.5		
	Granted	8
	Denied	1
	TOTAL CASES	9
Penal Code Section 1026.2(E)		
	Granted	4
	Denied	6
	Withdrawn	3
	Pending	3
	TOTAL CASES	17
Penal Code Section 1026.2		
	Restored	2
	Withdrawn	2
	TOTAL CASES	4
Penal Code Section 1600 Hearings		22
	TOTAL CRIMINAL CASES	51
	TOTAL MENTAL HEALTH UNIT CASES	5,082

IX. RESEARCH UNIT

Program Cost: \$224,799

Program Goals:

1. To prepare writs and appeals, legal memoranda in complex cases
2. To provide research for cases in litigation
3. To provide technical assistance in writs and appeals

The newest administrative component of the Public Defender's Office is the Research Unit. It is located on the second floor, beside the Public Defender Library. One Head Trial Attorney, Grace L. Suarez; another attorney; and one paralegal work there. The unit writes briefs, writs and appeals, researches the law for cases in trial, and provides technical assistance to attorneys in the preparation and filing of pleadings.

The unit has an indexed brief bank and a microfiche file containing cases of the State Public Defender. The unit also has a Westlaw terminal to perform computerized legal research.

The unit has the use of three Wang word processors and one Apple computer which generate work rapidly.

The value of the unit cannot be overstated. It generates an average of 18 documents a month, including

petitions for writs, appellate briefs, and trial motions. Not included are the many questions handled orally and the ongoing technical assistance provided to lawyers in trial. This can include anything from performing a Westlaw search for an attorney about to argue a motion to drafting special jury instructions.

The unit's staff constantly maintains and updates a brief bank containing several hundred documents. They are indexed on the Wang word processor for easy retrieval. In addition, a library of forms, kept online on the Wang system, provides attorneys with up-to-date, technically-correct documents.

The Public Defender library contains updated practice books and materials from recent lectures, making it an efficient research tool. Maintaining the library and brief bank occupies a substantial portion of staff time.

The unit produces a monthly bulletin citing and summarizing appellate decisions and issues memos as needed on important cases and new laws.

The work of the unit enhances the quality of the trial attorney's representation. The harried trial practitioner can still submit a well-researched and drafted motion and seek pretrial writ relief within hours or the motion's denial. The attorney can keep up with the torrent of new cases published every year and can feel confident that the

advice he gives is based upon an understanding of the most current law.

X. INVESTIGATION UNIT

Program Cost: \$699,122

Program Goals:

1. To obtain information about the facts and circumstances regarding the cases of the individual clients represented by the Public Defender
2. To provide necessary support services to attorneys in furtherance of the representation of those cases

The Investigative Unit consists of a Head Trial Attorney, Gordon H. Armstrong, who supervises the unit, 9 investigators, and 3 clerks. The unit carries out investigation for the Felony, Misdemeanor, and Mental Health Units. All told the section carried out 2,135 investigations.

An investigator starts working on a case when an attorney makes a written request. The request may ask that a witness be located and interviewed, that the crime scene be photographed, and/or that a document be located. A suspense date is set for the completion of the investigation. Supplementary requests may be made. the same investigator will be assigned to the case throughout the life of the case.

Solid and competent investigation is absolutely essential to effective representation. It can literally win the case for the lawyer. It can provide the exculpatory evidence which proves a client's innocence. It can find those facts which contradict the prosecutor's case.

Offices simply cannot afford to neglect adequate and professionalized defense services. As the 1976 Commission on Defense Services stated:

Criminal investigation is an essential element of criminal defense. Offices lacking adequate investigative staff tend to neglect the investigative function and rely on the state's version of witness statements and other evidence. It is not cost-effective for lawyers to do all of the investigation connected with a case. Moreover, where lawyers conduct investigations, it may be necessary to have an investigator along to refute charges of impropriety and to have a witness who can testify at trial if necessary.

Secondly, since investigation is increasingly becoming a professional skill requiring professional expertise, investigators should be hired who have the professional skills required. Professional investigators greatly improve the overall quality of service in a defender office.

In order to ensure that investigations are conducted in every case where there is a factual question not subject to objective determination, an adequate attorney-investigator ratio is necessary. at

least one investigator should be employed for every three staff attorneys. This figure is based upon the experience of defenders from coast to coast. (At p. 333.)

This year, the Investigative Unit completed 1,780 investigations.

The Investigative unit experienced the selection of ten investigators through the Civil Service. At last, the temporary status was ended.

XI. OTHER MATTERS OF INTEREST

1. Conflicts

The Public Defender is required to represent all persons accused of crimes who do not have enough money for their counsel. However, cases arise where the Public Defender cannot represent an accused who does not have funds for his own counsel. For example, there may be more than one person charged in a case, and the Public Defender can only represent one person. In that case, the Public Defender declares a conflict-of-interest; and a separate, private attorney will be appointed. Conflicts can arise also where a public defender client becomes a witness against another public defender client. In that case, one or the other will have to have separate non-public defender counsel.

We have sought to limit declarations of conflict-of-interest to those situations required by law and ethics. In multiple defendant cases, we usually represent the "heaviest" defendant--the one whose case requires the most work.

Conflict costs are expensive. What is more, a Public Defender that shies away from serious cases by finding a farfetched reason for a conflict does a disservice to his statutory responsibilities. The following table states the number of conflict cases, as well as the costs, over the last several years.

TABLE N
Conflict Cases

Conflict Costs

<u>Year</u>	<u>Municipal Court</u>	<u>Superior Court</u>	<u>Total</u>
82-83	605,822	794,992	1,400,814
83-84	600,719	840,201	1,440,920
84-85	508,893	968,707	1,477,602
85-86	1,064,647	1,080,848	2,145,495
86-87	921,935	1,383,426	2,305,361
87-88	1,029,190	1,545,164	2,574,354

Number of Conflict Cases

<u>Year</u>	<u>Municipal Court</u>	<u>Superior Court</u>	<u>Total</u>
82-83	2,096	1,111	3,207
83-84	1,532	1,025	2,557
84-85	1,432	787	2,219
85-86	2,417	1,460	3,877
86-87	2,007	1,841	3,848
87-88	2,465	2,373	4,836

2. Volunteer Attorneys--Pillsbury, Madison and Sutro

For over ten years, the Public Defender's Office has benefited from the volunteer participation of Pillsbury, Madison & Sutro and Morrison & Foerster. Recently, our volunteer staff has been joined by members of the law firm of Heller, Ehrman, White & McAuliffe. For stints up to six months, an attorney from one of the nation's most prestigious firms works in our office handling felony cases. The quality of their work has been outstanding, reflecting the excellence and public spirit of their firm and themselves individually. We all owe a great vote of thanks to these fine lawyers.

3. War on Drugs

During FY 87-88, the Office of the Public Defender experienced the greatest influx of felony cases in memory. The increase reflected the mammoth number of narcotics arrests, particularly in the crack cocaine area. Table O sets forth the increase in narcotic arrests and filings.

TABLE O

Narcotic Arrests, Felony Arrests,
Narcotic and Felony Rebookings

	<u>Narcotic Arrests</u>	<u>Total Arrests</u>	<u>Narcotic Rebookings</u>	<u>Total Rebookings</u>
1986-87	7,240	16,668	3,727	6,646
1987-88	1,119(+53.5%)	20,970(+25.8%)	5,376(+44.2%)	8,042(+20%)

(Source: District Attorney's Office)

As we suggested in last year's Annual Report, the increase in narcotics arrests resulted from a doubling of narcotic-assigned police officers. There was no corresponding increase in any of the other agencies in the criminal justice system -- the Public Defender, the District Attorney, the Adult and Juvenile Probation Departments, and the Sheriff. The effect soon became apparent: the courts were jammed, the probation officers could not complete presentence reports in time, and the jails filled beyond capacity. To compound the problem, each of these agencies suffered budgetary cuts.

The Public Defender was forced in August, after the close of fiscal year, to refuse cases in one misdemeanor department, so that it could have two additional deputies to the felony courts. Had we not done that, it is clear that the felony caseload would have been beyond the capacity of the attorneys to provide adequate representation.

For all the law enforcement effort to suppress drug traffic in this City in the last year, these facts are evident:

1. The drug traffic has not been affected. The police are still making the same number of arrests, and their program is not having a deterrent effect. As Lt.

Rene La Prevotte said recently: "We are making over 1,000 arrests a month, and we haven't made a dent in the problem."

2. There is a crying shortage of rehabilitative services. There are almost no bed space available for youths despite the fact that crack arrests are filling up Juvenile hall. There are few for adults, and none for addicted mothers.

3. Most offenders are being given probation, but without any supportive service. For first-time offenders, probationary sentences are the most common dispositions. Each offender is required by the terms and conditions of his probation to seek counseling and treatment as directed by the probation officer. Yet, the counseling and treatment is nonexistent. The probationer is set up for failure and, by and large, the revocation of his probation is a matter of time.

4. The police have yet to bring an important drug dealer to justice.

In sum, the law enforcement model currently under use in San Francisco is a failure. It neither deters nor rehabilitates. Its operation is a tribute to man's capacity to delude himself with meaningless and routine action. We await an innovator with new ideas and inspiration that will offer an alternative to shibboleths

of criminal justice bureaucrats and headline-grapping politicians.

4. Caseload Standards

The glut of narcotics arrests very nearly undermined the ability of the Office of the Public Defender to provide adequate representation in felony cases. The consistently-high preliminary hearing, motion to revoke, and trial loads of individual attorneys have caused us to develop felony caseloads standards, so that we can define the maximum number of cases the office can accept.

The problem of defining in precise numerical terms is anything but easy. Cases vary in their demands and their complexity. But realistic standards that reflect the shared experience of public defender practitioners are essential if management is going to undertake the difficult and controversial task of declining cases.

5. Affirmative Action

Affirmative Action represents a major goal for 1988. The Office of the Public Defender represents in great number individual from minority backgrounds. The presence of attorneys from ethnic, social, and economic backgrounds of the client community assists the lawyer-client relationship by developing more a relationship of trust. It is also an important statement to this office's commitment to

equal opportunity. At the present time, 39%^{7/} of the lawyers are of minority ethnic groups, and 42% are women. In addition, this office has a substantial presence of Gay and Lesbian attorneys. In 1989, it will be our intention to increase minority presence in this office, and we are confident we can do it. Although the Civil Service Commission has determined that we are in compliance with workforce standards^{8/}, we are determined to make this office even more representative of the community.

^{7/} (Black attorneys, 8 = 11.95, Hispanic, 7 = 10%, Asians, 11 = 16.4%).

^{8/} The total data for attorneys meets "'Lawyer' labor force availability for San Francisco" (Letter of Nancy Yokoyama Woo to Jeff Brown, dated December 12, 1985).

APPENDIX A

Workload and Activity of Municipal and Superior Courts

1. Certified Pleas

1978-79	314
1979-80	390
1980	375
1980-81	462
1981	880
1981-82	822
1982	1,215
1982-83	1,649
1983	1,065
1983-84	1,111
1984	1,208
1984-85	1,400
1985	1,579
1985-86	1,563
1986	1,651
1986-87	1,929
1987-88	2,564

(Source: Judicial Council)

2. Persons Accused
of Felony Cases
in Municipal Court

1978-79	6,038
1979-80	6,629
1980	6,345
1980-81	6,415
1981-82	7,708
1982	7,235
1982-83	6,964
1983	6,717
1983-84	5,982
1984	6,014
1984-85	6,550
1985	7,311
1985-86	7,412
1986	7,137
1986-87	7,166
1987-88	8,806

(Source: Judicial Council
Reports of Municipal Court)

3. Persons Accused of
Non-Traffic Misdemeanors
in Municipal Court

1979-80	15,131
1980	17,510
1980-81	14,322
1981-82	20,091
1982	18,276
1982-83	14,418
1983	11,563
1983-84	12,281
1984	13,831
1984-85	15,399
1985	15,495
1985-86	15,206
1986	14,656
1986-87	13,417
1987-88	11,172

(Source: Judicial Council
Reports of Municipal Court)

4. Superior Court Activity

	<u>1983-84</u>	<u>1984-85</u>	<u>1985-86</u>	<u>1986-87</u>	<u>1987-88</u>
New Actions	3,267	3,148	3,491	2,840	4,412
Informations	1,920	1,731	1,512		1,772
Indictments	1	1	n/a		4
Certifications	1,129	1,250	1,802	1,929	2,491

(Source: Superior Court)

5. Arrests for Opiates

	<u>1986</u>	<u>1987</u>	<u>1988</u>
August	389	508	
September	354	590	
October	377	710	
November	356	692	
December	344	730	
January		506	765
February		368	682
March		228	980
April		417	815
May		472	789
June		446	788
July		457	741
August		508	807

6. Public Defender Cases Pending
in Superior Court for Trial

<u>1983</u>		<u>1984</u>		<u>1985</u>	
1/3	160	1/1	186	1/16	232
1/15	164	1/15	163	2/1	236
2/15	166	2/16	187	2/16	225
3/1	165	3/16	218	3/1	227
3/15	147	4/16	218	3/15	210
4/4	150	6/1	190	4/16	197
4/21	169	6/16	182	5/1	213
5/1	178	7/1	177	5/16	206
5/15	170	7/16	173	7/16	160
6/1	160	8/1	193	8/1	147
6/19	155	8/16	191	9/1	128
7/1	158	8/31	204	10/1	178
7/16	152	9/16	217	10/15	185
8/1	166	10/16	190	11/1	201
9/1	187	11/1	210	11/16	191
9/15	210	11/16	230	12/1	193
10/1	174	12/16	199	12/16	194
10/15	218	<u>Av:</u>	<u>195.21</u>	<u>Av:</u>	<u>195.47</u>
11/1	187				
11/16	204				
12/1	205				
12/15	189				
<u>Av:</u>	<u>174.2</u>				

<u>1986</u>		<u>1987</u>		<u>1988</u>	
1/1	208	2/1	200	1/4	246
2/1	230	2/14	181	1/11	255
2/16	263	3/28	176	1/18	241
3/1	296	4/4	178	1/25	234
4/1	285	4/20	179	2/1	233
4/19	259	5/2	185	2/8	233
4/21	254	6/1	130	2/15	233
4/28	246	6/17	134	3/8	258
5/2	236	6/27	119	3/28	247
5/12	247	7/13	118	4/16	255
5/19	207	7/18	129	4/18	255
5/26	192	7/25	144	4/25	253
6/2	184	8/1	152	6/13	227
6/9	200	8/9	167	6/27	233
6/15	200	8/17	174	7/25	260
8/16	172	8/24	182	7/27	255
8/25	164	8/31	172	8/22	259
9/1	159	9/8	186	8/29	269
9/15	161	9/21	188	9/5	237
9/23	167	10/5	195	9/12	202
9/30	167	10/12	206	9/19	202
10/10	202	10/26	206	9/28	180
10/16	199	11/2	207	10/1	195
11/2	206	Av:	177.25	10/7	203
11/22	200			10/14	203
12/1	196				
12/6	202				
12/13	197				
<u>1/6</u>	<u>183</u>				
Av:	210				

(Source: CMS Computer)

7. Public Defender Cases Going to Superior Court
by Holdings or Certified Pleas

06/87	191
07/87	183
08/87	181
09/87	225
10/87	230
11/87	204
12/87	240
01/88	221
02/88	223
03/88	270
04/88	263
05/88	282
06/88	317
07/88	273
08/88	301

5
1/89
OFFICE OF THE PUBLIC DEFENDER
CITY AND COUNTY OF SAN FRANCISCO
1988-89 FISCAL YEAR

ANNUAL REPORT

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INTRODUCTION

This Annual Report is a statement of the work of the Public Defender's Office. It is a description of the jurisdiction of the office and a record of the expenditures, programs, program costs, and performance objectives for this department of city government.

The Public Defender represents people charged with crimes who do not have money to hire their own lawyers. Twenty thousand such people are represented every year. To carry out that responsibility, the Public Defender has a staff of 66 lawyers and 36 support personnel.

The Public Defender is responsible for seeing that each client is fully and competently represented. This requires the Public Defender to provide each client with a defense that works to the maximum legal advantage of that client. Whatever the Public Defender's status as a public officer, the Public Defender's primary duty and loyalty is to the client, no matter how grievous the charges and no matter how strong the evidence against that person is.

The San Francisco Public Defender is elected: one of the few in this country. With that status comes certain responsibilities. First, as an elected official, the Public Defender is accountable to the public in terms of the quality of his administration. The public has a right to know the level of

expertise, the nature of the Public Defender's hiring, the efficiency of the office, the level of integrity, and honesty.

Second, as an elected official, the Public Defender has the duty to articulate the concerns he has about the overall quality of justice within the system. The elected Public Defender has a duty to be more than a passive player within the system. He must speak up as injustices occur--either in the working of the judicial system or in the legislative process. In that sense, the Public Defender must be a leader of public opinion.

Third, the elected Public Defender has a duty to protect the indigent defense system against negative public opinion or politically-motivated action. The Public Defender must never succumb to the temptation to put the interests of public opinion, or his own popularity, over the interests of the client. Throughout this detailed report, we hope the reader keeps in mind the principal concern of this department: that every client receive the highest quality of representation. The task of every employee, whether department head or telephone operator, is to ask this question--"Is there anything more, within reason, we could do for the man or woman who uses our services?"

There are usually 100 employees, and the proper and efficient distribution of work assignments for each person is essential. In order to meet the demand of effectively representing each client's

case, an administrative structure exists within which workload is distributed and work performance is closely supervised.

OVERALL OFFICE GOALS

The overall goals of the office are:

1. To insure that each defendant receives competent and zealous representation
2. To maintain the highest professional and ethical standards on the part of each employee of the department
3. To insure that the delivery of legal services be as economical as possible without sacrificing the quality of those services
4. To maintain public respect for the public defender and the criminal justice system

Everything that is done in the Public Defender's Office is designed to bring about these goals.

I. JURISDICTION

Section 33 of the Charter:

[The Public Defender] shall immediately, upon the request of a defendant who is financially unable to employ counsel, or upon order of the court, defend or give advice to a person charged with the commission of a crime.

The Public Defender is a creature of the Charter of the City and County of San Francisco. The Charter provides that the Public Defender will represent persons who have been charged

with criminal offenses and who are without funds to pay for a privately-retained lawyer.¹

In addition to this specific grant of power by the Charter, the California Government Code also authorizes counties, such as San Francisco, to establish public defender offices.² The Government Code sets forth the types of cases which can be handled by a County Public Defender. These include:³

- (1) Criminal cases upon request of the defendant or by appointment of the court;
- (2) Contempt cases;
- (3) Appeals;
- (4) Actions for the collection of wages or other demands against a person for under one hundred dollars;
- (5) Defense of individuals in civil litigation where a person is being harassed or persecuted;
- (6) Cases involving mental health guardianships and conservatorships;⁴
- (7) Juvenile cases.

The Welfare and Institutions Code also provides for the appointment of attorneys for indigent parents whose custody

¹ Charter Section 33

² Government Code Section 27706

³ *Ibid.*

⁴ Probate Code Section 1471 also provides for public defender appointment in probate guardianship under specified conditions.

rights to their children are being subjected to proceedings for suspension or for termination of those rights.⁵

The law, thus, provides for public defender representation in a wide spectrum of activities. Although the great bulk of the office's activities are in the criminal courts, the office is also quite active in representing persons in mental health and in juvenile cases.

II. OFFICE STRUCTURE, STAFF, BUDGET, AND WORKLOAD

1. Office Structure

The executive officer of the Public Defender's Office is the Public Defender. The Public Defender is elected every four years. The Public Defender appoints all Deputy Public Defenders and a Confidential Secretary.⁶ These employees serve at the pleasure of the Public Defender. The balance of the staff, which includes investigators, secretarial, and other support personnel, are selected through Civil Service rules.

The Chief Attorney is the second executive officer of the department. The Chief Attorney is the person to whom all other supervisors directly report. The Chief Attorney is Acting Public Defender should the former leave the state.

⁵ Sections 634 and 317 of the Welfare and Institutions Code. On August 1, 1988, the Public Defender discontinued representation in cases of parental rights. The reason for this action was the cut in funding and loss of budgeted attorney positions.

⁶ Charter Section 3.47

There are seven administrative units in the Public Defender's Office. Six of these seven relate directly to legal representation and are under the direction of supervising attorneys. These include:

- (1) Misdemeanor Unit: 17 attorneys in 6 Municipal Courts.
- (2) Felony Unit: 36 attorneys in both the Municipal Court (Felony Division) and in the Superior Court.
- (3) Mental Health Unit: 3 attorneys, 2 investigators.
- (4) Juvenile Unit: 5 attorneys, 1 investigator, 2 social workers, 3 clerical-secretarial personnel.
- (5) Research Unit: 2 attorneys and 1 paralegal.
- (6) Investigative Unit: 1 principal attorney as supervisor, 10 investigators, 3 clerks.
- (7) Administrative Unit: 1 executive assistant, 1 accounts coordinator, 15 clerical personnel.

2. Staff

A breakdown of the Office by class and job title is:

Attorney	66
Investigator	12
Executive Assistant	1
Fiscal/Budget Coordinator	1
Legal Sec. I	2
Secretary I	2
Transcriber Typist	43
Junior Clerk	1
Clerk Typist	1
Senior Clerk Typist	2
Telephone Operator	2
Senior Legal Process Clerk	2
Legal Process Clerk	6
Legal Assistant	1
Court Alternative Specialist I	<u>2</u>
	102

TABLE A

Cost Breakdown

	<u>(88-89)</u>	<u>(89-90)</u>
Permanent Salaries	\$4,951,444.00	\$5,396,528.00
Fringes	<u>1,219,120.00</u>	<u>1,279,542.00</u>
Subtotal of Personnel Costs	<u>\$6,170,564.00</u>	<u>\$6,676,070.00</u>
Fees and Other Compensations	143,700.00	143,700.00
Professional Services	6,000.00	6,000.00
Other Contractual Services	45,000.00	50,000.00
Training	2,000.00	2,000.00
Other Services	6,000.00	6,000.00
Telephone	75,400.00	75,400.00
Material and Supplies	30,000.00	35,000.00
Membership Dues	200.00	300.00
Rental of Property	485,136.00	511,776.00
Equipment Purchase	6,000.00	8,000.00
Police Dept. (use of Wang Word Proc.)	128,527.00	134,239.00
Central Shop	15,000.00	9,100.00
Civil Service	610.00	610.00
Light, Heat & Power	17,220.00	21,000.00
Juvenile Court	16,788.00	17,028.00
Controller ISD	3,000.00	3,000.00
Reproduction	3,000.00	3,000.00
Workers Compensation	--	27,851.00
Other Costs	<u>26,361.00</u>	<u>7,000.00</u>
Subtotal for Non-Personnel Costs	<u>\$1,009,942.00</u>	<u>\$1,061,004.00</u>
Total Costs	<u>\$7,180,506.00</u>	<u>\$7,737,074.00</u>

3. Budget

Table B sets forth the rise in the Public Defender budgets from Fiscal Year 78-79 to the present. In Fiscal Year 86-87, our costs took a sharp rise due to charter-mandated costs and to the cost of renting new premises. During Fiscal Year 88-89, the office sustained a decrease in its budget of 2.1%. This decrease was largely due to the elimination of three attorney positions. In Fiscal Year 88-89 the Increase reflects the adjustment of salaries to the prevailing wages in the various classifications of employment.

TABLE B

Comparative Budgets 1978-89

<u>Year</u>	<u>Ad Valorem</u>
78-79	Not avail.
80-81	2,971,918
81-82	3,613,481
82-83	4,486,465
83-84	5,099,091
84-85	5,979,942
85-86	6,605,225
86-87	6,628,340
87-88	7,337,986
88-89	7,185,106
89-90	7,293,699

4. Program Costs

Table C represents a salary cost for each program or each administrative unit within the Public Defender's Office.

TABLE C

Public Defender, Chief Attorney and Administration	\$ 947,921.00
Felony	\$2,454,957.00
Misdemeanor	1,166,469.00
Mental Health	418,596.00
Juvenile	721,216.00
Research	242,558.00
Investigation	<u>724,353.00</u>
TOTAL	<u>\$6,676,070.00</u>

5. Summary of Caseload

TABLE D

Recent Caseloads

	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>
<u>Felonies</u>						
Superior Court	1,493	1,338	1,540	1,576	2,114	5,345
Municipal Court	<u>4,152</u>	<u>4,256</u>	<u>4,649</u>	<u>4,977</u>	<u>5,660</u>	<u>5,634</u>
	<u>5,645</u>	<u>5,594</u>	<u>6,189</u>	<u>6,553</u>	<u>7,774</u>	<u>10,979</u>
Less cases held to answer or certified	<u>1,434</u>	<u>1,073</u>	<u>1,304</u>	<u>1,388</u>	<u>2,041</u>	<u>4,277</u>
TOTAL	4,211	4,521	4,885	5,165	5,733	6,702
 <u>Misdemeanors</u>						
	7,777	9,158	10,630	9,963	8,953	6,653
 <u>Juvenile Cases</u>						
Juveniles	2,211	2,010	1,927	2,054	2,501	2,419
Adults	<u>395</u>	<u>522</u>	<u>869</u>	<u>825</u>	<u>806</u>	<u>—</u>
TOTAL	<u>2,606</u>	<u>2,532</u>	<u>2,796</u>	<u>2,879</u>	<u>3,307</u>	<u>2,419</u>
 <u>Mental Health</u>						
	4,052	4,100	3,546	5,242	5,082	3,461

III. EXECUTIVE OFFICERS - PUBLIC DEFENDER AND CHIEF ASSISTANT

Program Cost: \$245,952

Program Goals:

- 1. To provide overall leadership**
- 2. To supervise the expenditure of money and use of resources**
- 3. To supervise the Head Attorneys in their management of attorneys and caseloads**
- 4. To develop policies and procedures**
- 5. To make appointments for discretionary and civil service position**
- 6. To evaluate the implementation of all office policies and duties**
- 7. To maintain contacts with other city and state agencies that affect the work of the Public Defender**
- 8. To provide public education about the work of the Public Defender and the work of the criminal justice system**
- 9. To insure a high ethical standard in the performance of Public Defender duties**

With the elected official, who is the Public Defender, the "buck stops here." The ultimate responsibility for the entire operation is upon the person of the Public Defender. As such, the Public Defender must clearly define the duties and the goals of the department and see that these are carried out.

The Chief Attorney is the chief executive officer who assists the Public Defender in the development of policies and procedures. In addition, the Chief Attorney has direct responsibility for the execution of those policies and proceedings. The Chief Attorney is the link between policy making and the line work of the office.

A major part of the Public Defender's function is to lobby the Mayor and the Board of Supervisors for the budgetary needs of the office. The Public Defender must develop the office budget and must work to see that the budget is approved.

The Public Defender also must educate the public at large about the function of the defense attorney in the criminal justice system. A large amount of the Public Defender's time is spent answering inquiries about critical issues which affect the criminal justice system. It is an understatement to say that those issues, whether they relate to drunk driving, or to child abuse, or to the decisions of the California Supreme Court, are matters of passionate debate.

The Public Defender must have the courage to enter that public debate and must provide an informed view, no matter how unpopular that view may be. As the National Legal Aid and Defender Commentary to Standard 3.5 put it:

. . . (the director of a defense system) has a duty in terms of public education which, if he fulfills it, will need to give him the kind of support that can be expected to arise out of the more decent instincts of citizens of a society dedicated to democracy and fair play. If he will approach the community, not as an apologist for his performance, but as an interpreter and reinterpreter of free society's own mandates concerning its constitutional guarantees; if he will approach this giant jury with the same skill that it is hoped that he approaches a petit jury, he will not only give strength to the foundations and structure of his own office but will do much to enhance that of the judicial process as a whole.

IV. ADMINISTRATION

Program Cost: \$701,969

Program Goals:

1. To provide clerical, secretarial services for the office
2. To provide data collection
3. To prepare payroll and process the expenditures for office

The Administrative Unit is managed by Sharon Christensen, the Executive Assistant. The unit consists of five components:

1. Word Processing (2 legal secretaries, 2 senior clerk typists, and 1 clerk typist)
2. Senior Legal Process Clerks (2 persons)
3. Legal Process Clerks (8 persons)
4. Accountant (1 person)
5. Reception Area Workers (2 telephone operators)

The work of these support personnel is critical to the operation of the Public Defender's Office. Without them, the lawyers could not function. Just as important, the Administrative Unit personnel provide an environment for the clientele and the public. If phones are answered, if documents are produced in a timely fashion, if the public is treated with courtesy, the work of the office will improve. If people are impressed that support personnel can effectively handle their questions and problems, the public will view the Public Defender's Office as a resource, not just another bureaucracy. As public attitude and funding correspond to the performance of the office, so the morale of the employees of the office corresponds to the public attitude. Good morale equals high performance--an equation that yields a net positive to the City and the Public Defender's Office.

V. FELONY UNIT

Program Cost: \$2,454,957

Program Goals:

- 1. To provide effective legal assistance in all felony cases in the Municipal and Superior Courts**
- 2. To decrease the number of cases where the client is held to answer for a felony**
- 3. To decrease the number and length of state prison sentences**
- 4. To reduce felony conflicts**

The Felony Unit consists of 34 trial attorneys and 2 supervisors, Robert Berman and Daro Inouye. The attorneys represent felony indigent defendants in the Municipal and Superior Court.

A felony case begins, after an arrest, in the Municipal Court. There the District Attorney files a criminal complaint. The defendant appears on the complaint; and if the defendant cannot afford an attorney, the court will appoint the Public Defender or, if there is a conflict of interest, a private attorney.

After appointment, the Public Defender will advise the defendant to enter a plea and will make the appropriate ball motion. A date will be scheduled for a preliminary hearing--a hearing to determine whether there is enough evidence to hold the defendant to answer for trial.

At the preliminary hearing, the prosecution will present evidence to prove that there is probable cause to believe the defendant is guilty of the crime. The defense will have the opportunity to cross-examine the prosecution's evidence or present evidence of their own (which rarely happens). Before the preliminary hearing, the defense attorney will be expected to investigate the case, interview witnesses, and interview his/her own client.

In many situations, the defense and the prosecution work out a disposition to the case. If that entails a plea by the client to

a felony, the plea is "certified" and sent to the Superior Court for sentencing.

If, however, a preliminary hearing is held, and the court decides there is enough evidence to hold the defendant for trial, the case is sent to the Superior Court and placed on a trial calendar after a plea of not guilty. The case will end up in a negotiated plea, a trial, or, in few instances, some other disposition.

Motions To Revoke Probation

In the last few years, a major part of the Public Defender workload is representing defendants in motions to revoke probation. These motions arise against individuals who were previously sentenced and placed on probation. If they break the law or if they do not comply with some condition of probation (e.g., they do not report to the probation officer), the District Attorney or the Probation Department can move to revoke probation.

In thousands of cases every year, individuals who are on probation are arrested for a new offense. The District Attorney or the Probation Department has the option of moving to revoke probation on the basis of the new charge. The District Attorney has also the option of filing the motion in lieu of prosecuting the new charge. In doing that, the District Attorney gives up the possibility of a new conviction, perhaps a concurrent or

consecutive sentence. However, the District Attorney can secure the Imprisonment of the probationer without a preliminary hearing or jury trial, a standard of proof that demands that the case is proven beyond a reasonable doubt, and the delay occasioned by the preparation for trial.

Until 1987, these motions to revoke represented a distinct minority of cases in the Superior Court. Usually, they were filed concurrently with a criminal charge. They have become, however, a majority of the unadjudicated cases in the Superior Court.

Statistical Trends

The Felony Unit experienced an arduous workload in 1988-89. Table E demonstrates the workload through various phases of felony activity.

TABLE E

Criminal Cases in Public Defender's Office

Municipal Court Cases	5,634
Superior Court Cases	
Cases held to answer in Municipal Court	1,242
Cases where there has been a certified plea	2,131
Felony motions to revoke	1,383
Felony sentences	3,373

Perhaps, the best indicator of total Public Defender activity is to combine the Muni Court arraignment with motions to revoke probation; i.e., in the Superior Court.

5,634 - Muni Court arraignment
1,383 - M.T.R.
 7,017 - New Public Defender cases

Comparing this year's workload against other years, Table F sets forth the Muni Court arraignments, the holdings, the certified pleas, and the Superior Court sentences.

TABLE F

New Public Defender Cases - 1982-83 to Present

	<u>82-83</u>	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>
Arraigned	4,152	5,175	4,256	4,649	4,977	5,660	5,634
Held to Answer	918	815	913	659	648	856	1,242
Certified Pleas	530	533	446	645	740	1,182	2,131
Sentencing	1,753	1,528	1,338	1,540	1,576	1,916	3,962

**Average Number of Cases Pending
 Measured on Given Dates**

We measured the caseload of individual attorneys on the following dates:

September 19	35.12
November 9	36.89
December 1	40.5
December 7	39.7
January 1	32.2
February 1	40.8
March 29	39.25
May 3	45.36

Average Number of Trial Cases Pending Superior Court

We have consistently measured the trial calendar on a weekly basis since 1983. Here are the average trial cases pending.

<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
174.2	195.21	195.42	210	177.25	213.09	221.85 (as of 9/2)

Our numerical trends are also borne out in the statistical findings by the Muni and Superior Court. Table G sets forth the available data from the Muni and Superior Courts.

TABLE G

All Cases (New) - Muni and Superior Court

	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>
Arraignments - Muni Court*	5,982	6,550	7,412	7,166	8,806	7,670
Informations - Superior Court**	1,920	1,731	1,582	N/A	1,772	1,812
Certified Pleas Superior Court	1,129	1,250	1,802	1,929	2,491	3,508

**Source: Municipal Court Judicial Council Statistics*

***Source: Clerk, Superior Court*

Disposition of Felony Cases

Felony cases are disposed of both in the Municipal and Superior Courts. In the Muni Court they are (1) discharged and the defendant no longer faces prosecution; (2) the case is reduced to a misdemeanor, if the law permits and that is the decision of the court and/or the District Attorney; (3) there is a plea of guilty to a felony; (4) there is a holding and the case is sent to the Superior Court for trial.

Of the 5,684 cases in the Muni Court, 40% of the cases did not reach the Superior Court.

In the Superior Court, the disposition of cases breaks down as follows:

State Prison Sentences	1,234
Probation Sentences	2,728
Dismissals	163

Trial Activity

The jury trial represents the most fundamental protection against unjust punishment in our system of laws. The jury trial stands in the way of a state that would arbitrarily punish or oppress an individual. It requires the prosecution to bring forth its proof with evidence about the accused's guilt.

In 1988-89, the felony attorneys in the Public Defender's Office tried a total of 91 felony trials. The cases are set forth in

Appendix A. The conviction rate was 17%. Ten of the ninety-one cases resulted in acquittals, another ten resulted in hung juries.

Workload of the Individual Attorney

The number of cases assigned to the individual attorney is based on the ability of the attorney to represent his or her client. An attorney assigned too many cases is unable to perform his/her duties to the client. The necessary investigation and research does not get done. The stress and distraction takes its toll and the quality of courtroom advocacy declines.

National standards have been formulated that attempt to deal with the appropriate and maximum numbers of cases that can be assigned to a public defender. The American Bar Association originally recommended that no more than 100 felony cases be given to a lawyer during a year. The A.B.A. abandoned that standard and instead allowed managers to make decisions based on factors not limited to strict numbers. The National Study Commission on Defense Services placed the maximum number at 150.

Although most managers of defender office feel that a maximum of 150-175 cases per year is the desirable point, they often accede to caseload levels that are over 200 cases. The Public Defender felony caseload for the line attorneys averages at 276 cases per year, 66% more than the recommended maximum of the National Study Commission.

On a daily basis, Public Defenders carry caseloads that, according to computer printouts, average regularly at 40 cases. According to long-time deputies, those printouts may understate caseloads as much as 30%.

The point is clear: these caseloads threaten the quality of representation in an intolerably severe manner. During the next fiscal year, a primary emphasis will be to match more defenders to the workload, or to reduce the workload by defining cut-off points for the acceptance of appointment by the court.

VI. MISDEMEANOR UNIT

Program Cost: \$1,166,469

Program Goal:

1. To represent indigent defendants competently in misdemeanor cases in the Municipal Court

The Misdemeanor Unit consists of 17 attorneys. There are included in that number 15 trial attorneys and two supervisors, Robin Levine and Ron Albers. The representation of misdemeanor cases -- those that carry a penalty of a year or less in the County Jail -- is conducted in six trial departments and one law and motion department of the Municipal Court.

The misdemeanor courts deal with an enormous variety of offenses -- from public drunkenness to burglaries and aggravated assaults that could have filed as felonies. By far, the largest single category of misdemeanor case is driving under the

influence -- a total of 1,802 cases in Fiscal Year 88-89 -- and approximated 30% of the caseload.

Disposition of Misdemeanor Caseload

In Fiscal Year 88-89, the number of new misdemeanor cases and motions to revoke was as follows:

New Misdemeanor Cases	6,169
Motions to Revoke	<u>484</u>
	6,653

In addition, there were 759 cases left unadjudicated in the last fiscal year which closed in this year.

Misdemeanor cases are disposed by pleas of guilty, conviction after a trial, by dismissals, and by diversion. The diversion disposition involves a referral of the case to the probation department or a diversion program, without a plea, on the condition that the defendant comply with certain requirements over a period of time. If the requirements are met, such as going to counseling or doing community service, and there are no new charges, the charges are dismissed.

In Fiscal Year 88-89, disposition of misdemeanor cases was:

Pled Guilty	4,610
Dismissals (per 1385, 1382, 1381 PC)	895
Diversion Dismissals	609
Diversion Referrals	974

Jury Trials

In Fiscal Year 88-89, the Misdemeanor Unit handled 98 jury trials. Of those 98, there were:

22 acquittals

14 hung juries

The cases are set forth in Appendix A.

Fiscal Year Comparisons

Table H sets out the fiscal year comparisons between years 84-85 and the present for new cases.

TABLE H

Fiscal Year Comparisons - Public Defender Cases

<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>
9,158	9,164	8,786	7,866	6,169

All Misdemeanor Arraignments

<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>
15,399	15,200	13,417	10,756	9,700

(Source: Judicial Reports, Municipal Court - A, B, & C misdemeanors)

The steady decrease in misdemeanor cases for the Public Defender and for the courts argues for some shift away from the present pattern of organization of the Municipal Court.

Specifically, spreading a declining number of misdemeanors among six Municipal Courts is a waste of judicial, prosecutorial, and defense resources. There is no reason why consolidation of at least two of the misdemeanor courts into one cannot take place. This would allow the courts to spread the cases among the remaining five courts and allow the personnel covering those courts to serve the rising felony population.

VII. JUVENILE UNIT

Program Cost: \$721,216

Program Goal:

1. To represent juveniles in delinquency cases and in cases where the District Attorney seeks to exclude juveniles from the juvenile justice system

The Public Defender's Office represents juvenile clients in the Juvenile Court at the Youth Guidance Center. The Juvenile Court Unit has a staff of five attorneys, including a supervisor, Joseph Spaeth. It has a support staff of one social worker, one investigator, and three clerical personnel.

Representation of juveniles involves defending them against charges which, if they were adults, would be crimes. In some cases the Public Defender will represent children who are charged with non-criminal behavior, like truancy or being beyond parental control. These are called "status" offenders, and cases are

brought against juveniles under Section 601 of the Welfare and Institutions Code.

In certain cases, the District Attorney will attempt, through a petition in the Juvenile Court, to exclude a juvenile from the juvenile court process and to have the juvenile prosecuted as an adult in the adult court system. In deciding whether the juvenile should be excluded, the court will look to the nature of the offense, the age and sophistication of the juvenile, as well as any other relevant information.

Until September, 1988, the Public Defender represented parents in the Juvenile Court, where the Department of Social Services attempts to suspend or to terminate the parents' custody over their children. However, with the loss of three positions from our Fiscal Year 88-89 budget, we were unable to represent competently the same number of clients. Since parental-custody cases were the only non-mandatory part of our caseload (that is, the only one in which we were not required by law to represent a client), we felt that we must discontinue representation of clients in that area of the law.

The Public Defender must be a forceful and a zealous advocate for the protection of the rights of the juvenile. Juvenile cases are adversary proceedings, and the attorney must use all of his talents in presenting the factual and the legal defenses on behalf of the juvenile client. At the same time, the Public

Defender must also be sensitive to the special problems confronting a juvenile offender. Attorneys in the juvenile courts must be able to identify emotional and educational difficulties and to explore the alternative which exist outside of the legal system. The lawyers must utilize fully all of the community-based agencies which provide social or psychiatric assistance.

TABLE I
Juvenile Statistics
Fiscal Year Comparisons

1. Caseloads--Public Defender

<u>Year</u>	<u>601</u> (Delinquency)	<u>602</u> (Criminal)	<u>707</u> (Removal to Adult Juris- diction)	<u>300</u> (Dependency)	<u>Total</u>
78-79	127	2,119	N/A	225	2,471
79-80	141	1,410	19	325	1,895
80-81	145	2,118	15	197	2,475
81-82	130	2,470	12	202	2,823
82-83	89	2,217	8	320	2,250
83-84	30	2,181	0	39	2,250
84-85	66	1,944	5	522	2,537
85-86	--	1,927	2	869	2,798
86-87	--	2,054	1	825	2,880
87-88	--	2,501	2	806	3,309
88-89	--	2,415	4	--	2,419

2. Commitments to CYA--Public Defender Cases

78-79 -- 96	83-84 -- 86*
79-80 -- 81	84-85 -- 31
80-81 -- 89	85-86 -- 36
81-82 -- 90	86-87 -- 16
82-83 -- 65	87-88 -- 29
	88-89 -- 13

3. Commitments to Log Cabin--Public Defender Cases

79-80 -- 136	84-85 -- 128
80-81 -- 95	85-86 -- 130
81-82 -- 102	86-87 -- 123
82-83 -- 103	87-88 -- 97
83-84 -- 113	88-89 -- 126*

*All cases--P.D. and non-P.D. cases.

Our statistical findings parallel those of the Department of Justice and the Judicial Council (see Table J):

TABLE J

Juvenile Court Caseloads and Filing (All Cases)

1. Department of Justice: Active Juvenile Probation Caseload 1972-1988

1972 - 1,997	1978 - 1,119	1984 - 1,208
1973 - 1,956	1979 - 1,333	1985 - 1,291
1974 - 2,004	1980 - 1,313	1986 - 1,287
1975 - 1,940	1981 - 1,259	1987 - 1,255
1976 - 1,837	1982 - 1,385	1988 - 1,200
1977 - 1,144	1983 - 1,348	

2. Judicial Council Reports: Juvenile Court Filing

<u>Year</u>	<u>Total Filings</u>	<u>Original Filings</u>	<u>Subsequent Filings</u>	<u>Contested Matters</u>	<u>601 W&I</u>	<u>602 W&I</u>
76-77	2,355	1,597	758	480	209	2,098
77-78	2,017	1,484	533	437	172	1,815
78-79	2,130	1,467	653	516	93	2,026
79-80	2,116	1,426	690	621	132	1,979
80-81	1,933	1,178	755	556	119	1,456
81-82	2,295	1,388	907	530	87	1,301
82-83	2,356	1,128	1,030	305	49	1,254
83-84	2,158	1,278	1,078	270	71	1,083
84-85	1,982	1,533	449	235	19	1,518
85-86	1,981	1,618	363	221	16	1,966
86-87	1,730	998	732	262	34	1,690
87-88	2,032	988	1,144	209	148	1,884

Crack Cocaine

Like the adult courts, the Juvenile Court is being inundated with crack cocaine cases. Juveniles are being brought in as accused sellers and users of cocaine. In the last two years, there has been a sharp rise in new criminal filings. Table K indicates how drugs and crack have made an impact on the juvenile system.

TABLE K

Filings in the Juvenile System

	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Juvenile Petitions	2,181	1,932	1,882	1,878	2,138	2,367
Petition for Drug Offenses	101	168	146	194	568	615
Petitions for Cocaine-Related Offenses	14	29	35	112	495	581

(Source: Juvenile Court)

The rise in crack cases among juveniles has been complemented by a tendency by the police to book rather than cite juveniles. Table L sets forth this trend.

TABLE L

Juvenile Bookings and Citations

	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Bookings	1,557	2,217	1,312	2,224	2,617
Citations	<u>3,547</u>	<u>2,879</u>	<u>3,019</u>	<u>3,110</u>	<u>2,584</u>
Total	5,104	5,096	4,331	5,334	5,201

(Source: Juvenile Court)

This increase of bookings has resulted in the severest kind of overcrowding at the Youth Guidance Center and Log Cabin, in the opinion of knowledgeable persons.

The Big Question

The big question is whether the present juvenile system is accomplishing anything. It has neither the resources to punish in any comprehensive way, nor does it have the wherewithal to rehabilitate. Although thousands of juveniles are brought into the system, few petitions are filed.

Most youths are sent back to their homes and their file stamped "counseled and closed." Worse still, the addicted juvenile is not getting the rehabilitative service, is not being placed in the rehabilitative setting, and is not being motivated to change his or her lifestyle. When the juvenile is incarcerated in Log Cabin or at the "cottages" at the Youth Guidance Center, he

or she serves his time and is released to the same streets, in the midst of the same groups, and sent back to the same schools.

President Bush is right to make drugs a national priority. He is right also to put money into law enforcement and rehabilitation, but the scope of this problem far exceeds the \$350,000,000 he plans to spend on rehabilitation. If San Francisco is any indication, there must be an investment of billions.

The attack on the problem of drug usage must be directed at (1) the physical addiction, (2) re-orientation of value systems, (3) education, and (4) the promise of job opportunities. The kid who lives in the ghetto and sees drug dealers with money and guns sees the only world that he/she knows. It is a ghetto of the mind, as well as a physical ghetto.

The juvenile system struggles on with cops, probation officers, counselors, judges, and defenders. It, in a sporadic and random way, attempts to bring the rule of law to youth. But the system is almost a parody of itself. Because it cannot afford to punish in any major way, its raison d'être as a deterrent system cannot be justified. Because it cannot afford to rehabilitate, its service apparatus has been a pathetic showcase, something out of an Evelyn Waugh story.

We must save our youth. There is no more important task, not locally, not nationally. No society that is productive or stable can afford a nation with some free and some slaves of drugs or

anything else. We cannot afford to write off a part of our population, because the task of rehabilitation is difficult and expensive.

VIII. MENTAL HEALTH UNIT

Program Cost: \$418,596

Program Goals:

1. To represent those alleged to be mentally ill in conservatorship proceedings
2. To represent the retarded in progress related to their treatment and placement
3. To represent the Insane in proceedings for the restoration of their sanity

The Public Defender is the principal attorney in the community for the mentally ill. Most of the work of the Mental Health Unit is done in the defense of petitions to establish mental health conservatorships pursuant to Section 5500 of the Welfare and Institutions Code. This conservatorship petition is the legal procedure for establishing judicial control over a person who is alleged to be a danger to himself or others or who is gravely disabled to the extent of lacking the ability to provide food, shelter, and care for himself/herself. If the petition is granted, an individual may be placed in a state hospital or in a local facility, whichever the court deems appropriate.

In these cases, the Public Defender is appointed to represent the proposed conservatee. As the attorney for the proposed conservatee, the Public Defender must review the medical reports, witnesses' statements, and explore alternative placement if the client contests the hearing.

The Mental Health Unit also represents mentally-ill clients who have been sent to state hospitals. These involve conservatees committed under Section 5500 of the Welfare and Institutions Code who have a right to periodic review of their status and their treatment, clients who have been found incompetent to stand trial under Sections 1368-70 of the Penal Code, those who have been found not guilty by reason of insanity under Section 1027 of the Penal Code, mentally disordered sex offenders pursuant to Section 6300 of the Welfare and Institutions Code, and mentally retarded dangerous persons under Section 6500 of the Welfare and Institutions Code.

These clients must be regularly visited and interviewed. If the state hospital makes an inappropriate recommendation for a patient, the Public Defender must bring that fact to the attention of the court. If it is necessary, a jury trial may be held to determine whether or not a person should be kept in a state hospital or whether or not his/her parole should be revoked.

TABLE M

Statistics - Mental Health--7/1/88 - 6/30/89

14-Day Certifications	1261
Writs of Habeas Corpus Filed	291
Granted	35
Denied	92
Withdrawn	164
New Conservatorships	858
Granted	252
Denied	606
Total Appearances	1109
Conservatorship Renewals	651
Granted	477
Denied	174
Total Appearances	949
5300 Petitions (Dangerous)	4
Granted	1
Denied	1
Withdrawn	1
Renewed Petitions	1
Total Appearances	13
Rehearings	72
Released	15
Held	36
Request Withdrawn	21
Total Appearances	124
Medical Consents (LPS Conservatees)	30
Granted	27
Denied	3
Total Appearances	74

Electroshock Hearings		11
Granted	7	
Denied	4	
Total Appearances	23	
Miscellaneous (Progress Reports; Change of Conservator, etc.)		57
Placements Hearings		108
Placement Change Ordered	57	
Placement Remained	51	
Total Appearances	209	
Developmentally Disabled		5
Probate Conservatorships		1
Probate Code 3200 (Medical Consents)		27
TOTAL CIVIL CASES		<u>3376</u>
Penal Code 1026.5		13
Granted	13	
Denied		
Penal Code 1026.2(e)		16
Granted	8	
Denied	3	
Withdrawn	5	
Penal Code 1026.2		11
Restored	4	
Denied	3	
Withdrawn	4	
Penal Code 1600 Hearings		29
Special DMH Privilege Hearings		16
Pending 1026 Cases	5	
Total Appearances	213	
TOTAL CRIMINAL CASES		<u>85</u>

IX. RESEARCH UNIT

Program Cost: \$242,558

Program Goals:

1. To prepare writs and appeals, motions, jury instructions, and memoranda of law as requested by Office personnel
2. To answer Office attorneys' legal questions
3. To provide technical assistance for deputies undertaking their own writs and appeals
4. To provide training sessions in legal practice, legal research, and computer literacy
5. To keep trial deputies informed of recent legal developments through newsletters and memos
6. To update and maintain a Brief and Documents Bank for research purposes
7. To update and maintain a library of commonly-used forms and documents
8. To acquire, organize, and maintain legal publications contained in the Office Library
9. To supervise the maintenance and acquisition of the Office's computer equipment
10. To formulate and develop an information systems plan for the Office

The Research Unit is located on the second floor and encompasses the Unit's Computer Room and the Library. Head

Attorney Grace L. Suarez supervises a staff consisting of one attorney and one paralegal. The physical plant contains six computers, five printers, and one scanner. The computers are used both by Unit personnel and by the Office's attorneys and contain copies of the Office's entire forms library. The Library contains several hundred case and practice books, a microfiche reader-printer, and a copy machine, as well as a Briefs and Documents Bank containing several hundred documents. One computer has access through a modem to the Westlaw computerized research system and the California Public Defenders' Association C.L.A.R.A. system.

In Fiscal year 1988-89, Unit personnel:

1) Prepared writs, motions, memos, and other documents in response to 184 formal requests.

2) Answered over 1,500 oral requests for information.

3) Briefed two cases resulting in published opinions: *Johnson v. Superior Court (1989) 208 Cal.App.3d 1093* and *Bruner v. Municipal Court (1989) 207 Cal.App.3d 1193*.

4) Organized 1989 Criminal Law Training Series -- 12 hours of training accredited by State Bar of California.

5) Organized two-hour State Bar-accredited lecture on new laws.

6) Lectured at training sessions for misdemeanor deputies.

7) Organized Westlaw training sessions.

8) Organized and led computer training sessions, both in-house and at End-User Computing.

9) Developed a specialized computer training manual and a Public Defender Office Computer Manual.

10) Supervised installation of seven new Compaq computers, and transfer of Wang computers to other personnel.

11) Co-edited and updated the Misdemeanor Procedure Manual.

12) Continued to publish an Improved monthly newsletter with case summaries, and issued semi-yearly compilations.

13) Updated and maintained the Briefs and Documents Bank and its computer-based index.

14) Issued approximately 20 memos on current legal issues.

15) Developed and maintained a computerized database of the Office's electronic equipment.

16) Prepared the annual Information Systems Master Plan.

The work of the Unit enhances the quality of the trial attorney's representation. Trial practitioners can submit well-researched and drafted motions and seek pretrial writ relief within hours of the motion's denial. Attorneys can keep up with the torrent of new cases published every year and feel confident that the advice they give is based upon an understanding of the most current law.

X. INVESTIGATION UNIT

Program Cost: \$724,353

Program Goals:

- 1. To obtain information about the facts and circumstances regarding the cases of the individual clients represented by the Public Defender**
- 2. To provide necessary support services to attorneys in furtherance of the representation of those cases**

The Investigative Unit consists of 10 investigators and 3 clerks and is supervised by Principal Attorney, Robert Evans. The Unit carries out investigation for Felony, Misdemeanor, and Mental Health Units. In Fiscal Year 1988-89 the Unit conducted the following work for the Misdemeanor and Felony Units.

	<u>Requests</u>	<u>Interviews</u>	<u>Subpoenas</u>
Misdemeanor	298	535	323
Felony	<u>744</u>	<u>2,712</u>	<u>1,295</u>
	1,042	3,247	1,618

An investigator starts working on a case when an attorney makes a written request. The request may ask that a witness be located and interviewed, that the crime scene be photographed, and/or that a document be located. A suspense date is set for the completion of the investigation. Supplementary requests may be made. The same investigator will be assigned to the case throughout the life of the case.

Solid and competent investigation is absolutely essential to effective representation. It can literally win the case for the lawyer. It can provide the exculpatory evidence which proves a client's innocence. It can find those facts which contradict the prosecutor's case.

Offices simply cannot afford to neglect adequate and professionalized defense services. As the 1976 Commission on Defense Services stated:

Criminal investigation is an essential element of criminal defense. Offices lacking adequate investigative staff tend to neglect the investigative function and rely on the state's version of witness statements and other evidence. It is not cost-effective for lawyers to do all of the investigation connected with a case. Moreover, where lawyers conduct investigations, it may be necessary to have an investigator along to refute charges of impropriety and to have a witness who can testify at trial if necessary.

Secondly, since investigation is increasingly becoming a professional skill requiring professional expertise, investigators should be hired who have the professional skills required. Professional investigators greatly improve the overall quality of service in a defender office.

In order to ensure that investigations are conducted in every case where there is a factual question not subject to objective determination, an adequate attorney-investigator ratio is necessary. At least one investigator should be

employed for every three staff attorneys. This figure is based upon the experience of defenders from coast to coast. (At p. 333.)

XI. OTHER MATTERS OF INTEREST

1. Conflicts

The Public Defender is required to represent all persons accused of crimes who do not have enough money for their counsel. However, cases arise where the Public Defender cannot represent an accused who does not have funds for his own counsel. For example, there may be more than one person charged in a case, and the Public Defender can only represent one person. In that case, the Public Defender declares a conflict-of-interest; and a separate, private attorney will be appointed. Conflicts can arise also where a public defender client becomes a witness against another public defender client. In that case, one or the other will have to have separate non-public defender counsel.

We have sought to limit declarations of conflict-of-interest to those situations required by law and ethics. In multiple defendant cases, we usually represent the "heaviest" defendant--the one whose case requires the most work.

Conflict costs are expensive. What is more, a Public Defender that shies away from serious cases by finding a farfetched reason for a conflict does a disservice to his statutory

responsibilities. The following table states the number of conflict cases, as well as the costs, over the last several years.

TABLE N

Conflict Cases

Conflict Costs

<u>Year</u>	<u>Municipal Court</u>	<u>Superior Court</u>	<u>Total</u>
82-83	605,822	794,992	1,400,814
83-84	600,719	840,201	1,440,920
84-85	508,893	968,707	1,477,602
85-86	1,064,647	1,080,848	2,145,495
86-87	921,935	1,383,426	2,305,361
87-88	1,029,190	1,545,164	2,574,354
88-89	1,143,933	2,310,460	3,454,393

Number of Conflict Cases

<u>Year</u>	<u>Municipal Court</u>	<u>Superior Court</u>	<u>Total</u>
82-83	2,096	1,111	3,207
83-84	1,532	1,025	2,557
84-85	1,432	787	2,219
85-86	2,417	1,460	3,877
86-87	2,007	1,841	3,848
87-88	2,465	2,373	4,836
88-89	3,220	3,858	7,078

2. Volunteer Attorneys—Pillsbury, Madison & Sutro

For over ten years, the Public Defender's Office has benefited from the volunteer participation of Pillsbury, Madison & Sutro and Morrison & Foerster. Recently, our volunteer staff has been joined by members of the law firm of Heller, Ehrman, White & McAuliffe. For stints up to six months, an attorney from one of the nation's most prestigious firms works in our office handling misdemeanor and felony cases. The quality of their work has been outstanding, reflecting the excellence and public spirit of their firm and themselves individually. We all owe a great vote of thanks to these fine lawyers.

Recent volunteer attorneys have included:

Pillsbury, Madison & Sutro

Christopher Ball

Paula Levitan

Charles Novack

Robert Phelps

Laurie Robertson

Lisa Saveri

Paula Weber

Morrison and Foerster

Paul Friedman

Jody Jakosa

Heller, Ehrman, White & McAuliffe

Jeffrey Leon

Charles Robinson

3. Affirmative Action

Affirmative Action continues to represent a major goal for 1989-90. The Office of the Public Defender represents in great number individuals from minority backgrounds. The presence of attorneys from ethnic, social, and economic backgrounds of the client community assists the lawyer-client relationship by developing more a relationship of trust. It is also an important statement to this office's commitment to equal opportunity. At the present time, 39.6%⁷ of the lawyers are of minority ethnic groups, and 47.6% are women. In addition, this office has a substantial presence of Gay and Lesbian attorneys. In 1989-90, it will be our intention to increase minority presence in this office, and we are confident that we can do it. Although the Civil Service Commission has determined that we are in compliance with workforce standards⁸, we are determined to make this office even more representative of the community.

⁷ (Black attorneys, 6; Hispanic, 8; Asian, 10; Other, 1. Please note, percentages indicated are based on the sixty three attorneys on staff as of the date of this writing, 12/26/89).

⁸ The total data for attorneys meets "Lawyer' labor force availability for San Francisco" (Letter of Nancy Yokoyama Woo to Jeff Brown, dated December 12, 1985).

APPENDIX A

Jury Trials

1. Misdemeanors

Acquittals	22
Hung Juries	14
Total	98

2. Felonies

Acquittals	10
Hung Juries	10
Total	91

APPENDIX B

Workload and Activity of Municipal and Superior Courts

1. Certified Pleas

1978-79	314
1979-80	390
1980	375
1980-81	462
1981	880
1981-82	822
1982	1,215
1982-83	1,649
1983	1,065
1983-84	1,111
1984	1,208
1984-85	1,400
1985	1,579
1985-86	1,563
1986	1,651
1986-87	1,929
1987-88	2,564
1988-89	3,449

(Source: Judicial Council)

2. Persons Accused of Felony Cases in Municipal Court

1978-79	6,038
1979-80	6,629
1980	6,345
1980-81	6,415
1981-82	7,708
1982	7,235
1982-83	6,964
1983	6,717
1983-84	5,982
1984	6,014
1984-85	6,550
1985	7,311
1985-86	7,412
1986	7,137
1986-87	7,166
1987-88	8,806
1988-89	7,670

(Source: Judicial Council Reports of Municipal Court)

**3. Persons Accused of Non-Traffic Misdemeanors
in Municipal Court**

1979-80	15,131	1985	15,495
1980	17,510	1985-86	15,206
1980-81	14,322	1986	14,656
1981-82	20,091	1986-87	13,417
1982	18,276	1987-88	11,172
1982-83	14,418	1988-89	12,985
1983	11,563		
1983-84	12,281		
1984	13,831		
1984-85	15,399		

(Source: Judicial Council Reports of Municipal Court)

4. Arrests for Opiates

	<u>1987</u>	<u>1988</u>	<u>1989</u>
January	506	765	886
February	368	682	871
March	228	980	930
April	417	815	776
May	472	789	606
June	446	788	606
July	457	741	626
August	508	807	811
September		848	700
October		832	484
November		881	469
December		797	

1985

1/16	232
2/1	236
2/16	225
3/1	227
3/15	210
4/16	197
5/1	213
5/16	206
7/16	160
8/1	147
9/1	128
10/1	178
10/15	185
11/1	201
11/16	191
12/1	193
12/16	194
Av:	195.47

1986

1/1	208
2/1	230
2/16	263
3/1	296
4/1	285
4/19	259
4/21	254
4/28	246
5/2	236
5/12	247
5/19	207
5/26	292
6/2	184
6/9	200
6/15	200
8/16	172
8/25	164
9/1	159
9/15	161
9/23	167
9/30	167
10/10	202
10/16	199
11/2	206
11/22	200
12/1	196
12/6	202
12/13	197
1/6	183
Av:	210

1987

2/1	200
2/14	181
3/28	176
4/4	178
4/20	179
5/2	185
6/1	130
6/17	134
6/27	119
7/13	118
7/18	129
7/25	144
8/1	152
8/9	167
8/17	174
8/24	182
8/31	172
9/8	186
9/21	188
10/5	195
10/12	206
10/26	206
11/2	207

Av: 177.25

1988

1/4	246
1/11	255
1/18	241
1/25	234
2/1	233
2/8	233
2/15	233
3/8	258
3/28	247
4/16	255
4/18	255
4/25	253
6/13	227
6/27	233
7/25	260
7/27	255
8/22	259
8/29	269
9/5	237
9/12	202
9/19	202
9/28	180
10/1	195
10/7	203
10/14	203
10/19	187
10/21	183
10/22	187
10/26	200
10/28	191
10/29	187
11/1	197
11/9	196
11/12	196
11/18	203
11/23	198
11/26	197
12/1	214
12/14	198
12/16	196
12/19	196
12/23	199
12/28	204

1989

1/4	202	10/11	237
1/7	202	10/16	238
1/14	207	10/20	235
1/21	198	10/21	236
1/28	193	10/25	238
2/1	202	10/27	245
2/10	182	10/28	250
2/11	207	11/3	243
2/15	208	11/15	236
2/17	215	11/17	228
2/18	221	11/18	217
2/22	215	11/22	215
2/24	218	11/24	211
2/25	222	11/25	206
3/5	222	11/29	209
3/22	200	12/3	211
3/31	195	12/8	215
4/5	193	12/16	209
4/7	207	12/20	213
4/8	212	12/23	208
4/15	219	12/27	205
4/19	232	12/29	209
4/26	233	12/30	207
5/3	247		
5/19	257		Av: 227.89
5/24	266		
5/31	262		
6/14	264		
6/23	260		
7/5	254		
7/8	248		
7/22	247		
7/28	244		
8/4	251		
8/5	240		
8/9	241		
8/12	232		
8/23	241		
8/26	269		
9/2	271		
9/20	247		
9/30	242		

**6. Public Defender Cases Going to Superior Court
by Holdings or Certified Pleas**

	<u>Month</u>	<u>HTA</u>	<u>Cert</u>	<u>Total</u>
'87	July	102	81	183
	August	98	83	181
	September	96	129	225
	October	121	109	230
	November	112	92	204
	December	105	135	240
'88	January	104	117	221
	February	100	123	223
	March	119	151	270
	April	102	161	263
	May	97	185	282
	June	140	177	317
	July	122	151	273
	August	107	194	301
	September	90	179	269
	October	95	173	268
	November	95	195	290
	December	81	198	279
'89	January	86	182	268
	February	87	158	245
	March	99	221	320
	April	131	162	293
	May	134	192	326
	June	94	192	286
	July	116	102	218
	August	133	158	291
	September	97	160	257
	October	123	150	273

5

9-90

OFFICE OF THE PUBLIC DEFENDER
CITY AND COUNTY OF SAN FRANCISCO
1989-90 FISCAL YEAR

ANNUAL REPORT

Jeff Brown
Public Defender

Peter G. Keane
Chief Attorney

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INTRODUCTION

This Annual Report is a statement of the work of the Public Defender's Office. It is a description of the jurisdiction of the office and a record of the expenditures, programs, program costs, and performance objectives for this department of city government.

The Public Defender represents people charged with crimes who do not have money to hire their own lawyers. The Public Defender also represents juveniles, persons involved in mental health guardianships and conservatorships. Twenty thousand such people are represented every year. To carry out that responsibility, the Public Defender has 71 lawyers and 37 support personnel.

The Public Defender is responsible for seeing that each client is fully and competently represented. This requires the Public Defender to provide each client with a defense that works to the maximum legal advantage of that client. Whatever the Public Defender's status as a public officer, the Public Defender's primary duty and loyalty is to the client, no matter how grievous the charges are and no matter how strong the evidence against that person is.

The San Francisco Public Defender is elected: one of the few in this country. With that status comes certain

responsibilities. As an elected official, the Public Defender is accountable to the public in terms of the quality of his administration. This Summary of the Annual Report is presented to the public pursuant to that responsibility.

OFFICE MISSION

The overall goals of the Public Defender are:

1. To insure that each defendant receives competent and zealous representation
2. To maintain the highest professional and ethical standards on the part of each member of the department
3. To insure that the delivery of legal services be as economical as possible without sacrificing the quality of those services
4. To maintain public respect for the public defender as an institution and the criminal justice system

JURISDICTION

The Public Defender is created by the Charter of the City and County of San Francisco. The Charter provides that the Public Defender will represent persons who have been charged with criminal offenses and who are without funds to pay for a privately-retained lawyer.

In addition to this specific grant of power by the Charter, the California Government Code also authorizes counties, such as San

Francisco, to establish public defender offices. The Government Code sets forth the types of cases which can be handled by a County Public Defender. These include:

- (1) Criminal cases upon request of the defendant or by appointment of the court
- (2) Contempt cases
- (3) Appeals
- (4) Actions for the collection of wages or other demands against a person for under one hundred dollars
- (5) Defense of individuals in civil litigation where a person is being harassed or persecuted
- (6) Cases involving mental health guardianships and conservatorships
- (7) Juvenile cases

Additionally, the Welfare and Institutions Code provides for the right of parents to be represented by appointed counsel where their parental custody is being challenged.

OFFICE STRUCTURE, STAFF, BUDGET, AND WORKLOAD

Office Structure

There are seven administrative units in the Public Defender's Office. Six of these seven relate directly to legal representation and are under the direction of supervising attorneys. These include:

- (1) Misdemeanor Unit: 17 attorneys in 7¹ Municipal Courts.**
- (2) Felony Unit: 36 attorneys in both the Municipal Court (Felony Division) and in the Superior Court.**
- (3) Mental Health Unit: 3 attorneys, 2 investigators.**
- (4) Juvenile Unit: 10 attorneys, 1 investigator, 3 social workers, 3 clerical-secretarial personnel.**
- (5) Research Unit: 2 attorneys and 1 paralegal.**
- (6) Investigative Unit: 1 principal attorney as supervisor, 10 investigators, 3 clerks.**
- (7) Administrative Unit: 1 executive assistant, 1 accounts coordinator, 15 clerical personnel.**

Budget

Table A sets forward the budgets of the Public Defender's Office since Fiscal Year 1980-91. This year the Public Defender increased 11.3% over the last fiscal year. The increase was due to two factors: (1) a 5.7% increase in salaries, mandated by Civil Service and the Charter, (2) the addition of five juvenile dependency lawyers, plus a social worker to assist them. In 1988, because of budget cuts, the Public Defender discontinued juvenile dependency representation. With this additional staff, we will take on the representation of over 1,000 cases, which

¹ *Effective 7/1/90, the number of full-time misdemeanor departments was reduced from seven to six. However, our Misdemeanor Division continues to staff the seventh department part-time with regard to the pre-July, 1990 cases that remain unresolved.*

previously would have been handled by private-appointed counsel at greater cost to the City.

TABLE A

Comparative Budgets 1980-91

<u>Year</u>	<u>Budget</u>
80-81	\$2,971,918
81-82	\$3,613,481
82-83	\$4,486,465
83-84	\$5,099,091
84-85	\$5,979,942
85-86	\$6,605,225
86-87	\$6,628,340
87-88	\$7,141,891
88-89	\$7,076,428
89-90	\$7,734,074
90-91	\$8,610,141

Program Costs

Table B sets forth the cost of each of the program areas of Public Defender work. The cost is represented by the salary and fringe cost of personnel working in those program areas.

TABLE B

Administration, Support, and Clerical	\$ 989,084.00
Felony Representation	2,576,902.00
Misdemeanor Representation	1,224,443.00
Mental Health	439,400.00
Juvenile	1,309,623.00 ²
Juvenile Delinquency	842,240.00 ³
Juvenile Dependency	350,413.00
Research	254,613.00
Investigation	<u>761,794.00</u>
TOTAL	<u>\$8,748,512.00</u>

^{2 & 3} Includes \$95,180 of money not included in Public Defender Budget but under a state grant carried by Mayor's Office of Criminal Justice.

Table C represents the caseload data of the Public Defender's Office for the last several fiscal years. Most conspicuous is the rise in the felony caseloads during Fiscal Year 88-89 and Fiscal Year 89-90. This has been the result of a large influx of drug cases and a large number of motions to revoke in the Superior Court by the District Attorney. We will discuss this more particularly in the section on felony representation, but it is important to say it has added a new dimension to our workload.

The decreases in mental health work arose from our decision to no longer represent all persons in mental health probable cause hearings. That action was taken in the face of budget cuts in 1988.

TABLE C
Recent Caseloads

	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>	<u>89-90</u>
Felonies							
Superior Court	1,493	1,338	1,540	1,576	2,114	5,345	5,754
Municipal Court	<u>4,152</u>	<u>4,256</u>	<u>4,649</u>	<u>4,977</u>	<u>5,660</u>	<u>5,634</u>	<u>5,294</u>
	5,645	5,594	6,189	6,553	7,774	10,979	11,048
Less cases held to answer or certified	<u>-1,434</u>	<u>-1,073</u>	<u>-1,304</u>	<u>-1,388</u>	<u>-2,041</u>	<u>- 4,277</u>	<u>- 3,167</u>
TOTAL	4,211	4,521	4,885	5,165	5,733	6,702	7,881
Misdemeanors	7,777	9,158	10,630	9,963	8,953	6,653	8,148
Juvenile Cases	2,211	2,010	1,927	2,054	2,501	2,419	2,163
Mental Health	4,052	4,100	3,546	5,242	5,082	3,461	3,574

FELONY UNIT

The Felony Unit consists of 34 trial attorneys and 2 supervisors, Robert Berman and Daro Inouye. The attorneys represent felony indigent defendants in the Municipal and Superior Court.

A felony case begins, after an arrest, in the Municipal Court. There the District Attorney files a criminal complaint. The defendant appears on the complaint; and if the defendant cannot afford an attorney, the court will appoint the Public Defender or, if there is a conflict of interest, a private attorney.

Possible dispositions of felony cases in the Municipal Court are participation in a drug diversion program, guilty pleas to misdemeanors or felonies, and dismissals.

If, however, a preliminary hearing is held, and the court decides there is enough evidence to hold the defendant for trial, the case is sent to the Superior Court and placed on a trial calendar after a plea of not guilty. The case will end up in a negotiated plea, a trial, or, in few instances, some other disposition.

Motions To Revoke Probation

In the last few years, a major part of the Public Defender workload is representing defendants in motions to revoke probation. These motions arise against individuals who were previously sentenced and placed on probation. If they break the

law or if they do not comply with some condition of probation (e.g., they do not report to the probation officer), the District Attorney or the Probation Department can move to revoke probation on the basis of the new charge or violation. The District Attorney gives up the possibility of a new conviction. However, the District Attorney can secure the imprisonment of the probationer without a preliminary hearing or jury trial, a standard of proof that demands that the case is proven beyond a reasonable doubt.

Until 1987, these motions to revoke represented a distinct minority of cases in the Superior Court. Usually, they were filed concurrently with a criminal charge. They have become, however, a majority of the unadjudicated cases in the Superior Court.

Trial Activity

The jury trial represents the most fundamental protection in our system of laws against unjust punishment. The jury trial stands in the way of a state that would arbitrarily punish or oppress an individual. It requires the prosecution to bring forth its proof with evidence of the accused's guilt.

In 1989-90, the felony attorneys in the Public Defender's Office tried a total of 95 felony trials. The acquittal rate was 14%.

Thirteen of the 95 cases resulted in acquittals, another 11 resulted in hung juries.⁴

Statistical Trends and Outcomes

Increased Sentencing

Table E indicates the overall workload and dispositions of Public Defender cases from 1982-83 to 1989-90. What is noticeable is the increase of sentences in 1988-89 and particularly in 1989-90. This sharp increase is the result of the District Attorney's policy decision to file motions to revoke in lieu of new prosecutions. This, coupled with the influx of drug cases, has caused sentences to increase 180% over the amount in 1986-87.

Increased State Prison Sentences

In Fiscal Year 1989-90, the Superior Court disposition of cases was as follows:

State Prison	1,711
Probation	1,922
Dismissed	108

State prison commitments represent 45.5% of our Superior Court dispositions. This rate again is the product of the District Attorney's increased use of motions to revoke probation against persons currently on probation. The motion which asserts a

⁴ *Hung juries are juries which cannot agree on a verdict during their deliberations. A mistrial is then declared, and the case is set for a re-trial.*

violation of probation based on a new arrest allows the District Attorney to seek a state prison disposition with a relaxed standard of proof and without a trial before a jury.

Workload

Although by the end of the fiscal year the workload cumulative figure indicated a very high workload, there is some evidence of a decrease in sight.

All of our best indicators pointed to a drop. The average caseload per attorney measured in April and in July evidenced a drop. The number of cases on the trial calendar throughout 1990 was substantially less than in the last few years, and the intake of felony cases reverted to pre-"war on drugs" levels with regard to the number of crack cocaine cases.

These indices were clearly the product of the end of San Francisco's undercover operation against crack users and buyers.

TABLE D
Felony Cases in the Public Defender's Office

Municipal Court Cases	
Cases set for preliminary hearing	5,294
Fugitive ⁵	<u>153</u>
	<u>5,447</u>
Superior Court Cases	
Cases held to answer in Municipal Court	1,291
Cases where there has been a certified plea	1,776
Felony motions to revoke	<u>1,587</u>
	<u>4,654</u>

TABLE E
New Public Defender Cases - 1982-83 to Present

	<u>82-83</u>	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>	<u>89-90</u>
Arraigned	4,152	5,175	4,256	4,649	4,977	5,660	5,634	5,447
Held to Answer	918	815	913	659	648	856	1,242	1,291
Certified Pleas	530	533	446	645	740	1,182	2,131	1,776
Sentencing	1,753	1,528	1,338	1,540	1,576	1,916	3,962	4,546

⁵ These are cases wherein defendants are arrested in San Francisco on warrants from other states.

MISDEMEANOR UNIT

The Misdemeanor Unit consists of 17 attorneys -- 15 trial attorneys and two supervisors, Robin Levine and Ron Albers. The representation of misdemeanor cases--those that carry a penalty of a year or less in the County Jail--is conducted in six trial departments and one law and motion department of the Municipal Court.

The misdemeanor courts deal with an enormous variety of offenses--from public drunkenness to burglaries and aggravated assaults that could have been filed as felonies. By far, the largest single category of misdemeanor case is driving under the influence--a total of 2,166 cases in Fiscal Year 89-90 and approximated 30% of the caseload.

Misdemeanor cases are disposed of by pleas of guilty, convictions and acquittals after trial, by dismissals, and by diversion. Diversion involves a referral of the case to the probation department or a diversion program, without a plea, on the condition that the defendant comply with certain requirements over a period of time. If the requirements are met, such as going to counseling or doing community service, and there are no subsequent charges, the charges are dismissed.

In Fiscal Year 1989-90, the Misdemeanor Unit handled 90 jury trials. Of those 90, there were 27 acquittals and 16 hung juries.

Disposition of Misdemeanor Caseload

In Fiscal Year 89-90, the number of new misdemeanor cases and motions to revoke was as follows:

New Misdemeanor Cases	6,169
Motions to Revoke	<u>484</u>
	6,653

In addition, there were 759 cases left unadjudicated in the last fiscal year which closed in this fiscal year.

In Fiscal Year 89-90, the disposition of misdemeanor cases was:

Pled Guilty	4,610
Acquittals and Dismissals (per 1385, 1382, 1381 PC)	895
Diversion Dismissals	609
Diversion Referrals	974

Fiscal Year Comparisons

Table F sets out the fiscal year comparisons between years 84-85 and the present for new cases.

TABLE F

Fiscal Year Comparisons - Public Defender New Misdemeanor Cases

<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>	<u>89-90</u>
9,158	9,164	8,786	7,866	6,169	7,628

All New Misdemeanor

<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>	<u>89-90</u>
15,399	15,200	13,417	10,756	9,700	10,683

Source: Judicial Reports, Municipal Court - A, B, & C misdemeanors

JUVENILE UNIT

The Public Defender's Office represents juvenile clients in the Juvenile Court at the Youth Guidance Center. The Juvenile Court Unit has a staff of five attorneys, including a supervisor, Joseph Spaeth. It has a support staff of one social worker, one investigator, and three clerical personnel.

Representation of juveniles involves defending them against charges which, if they were adults, would be crimes. In some cases the Public Defender will represent children who are charged with non-criminal behavior, such as truancy or being beyond parental control. These are called "status" offenders, and cases are brought against juveniles under Section 601 of the Welfare and Institutions Code.

Dependency Cases

Until September, 1988, the Public Defender represented *parents* in the Juvenile Court, where the Department of Social Services attempted to suspend or to terminate the parents' custody over their children. However, with the loss of three positions from our Fiscal Year 88-89 budget, we were unable to represent competently the same number of clients. Since we were not required by law to represent clients in parental custody cases, we discontinued representing clients in that area of the law.

However, this year Mayor Agnos and the Board of Supervisors put money in the Public Defender's budget for five attorneys and a social worker to handle dependency cases. On September 4, 1990 the Public Defender began taking dependency cases.

Juvenile cases are adversary proceedings, and the Public Defender must use all of his talents in presenting the factual and legal defenses on behalf of the juvenile client. At the same time, the Public Defender must also be sensitive to the special problems confronting a juvenile offender. Attorneys in the juvenile courts must be able to identify emotional and educational difficulties and to explore the alternatives which exist outside of the legal system. The lawyers must utilize fully all of the community-based agencies which provide social or psychiatric assistance.

TABLE G

Public Defender Juvenile Caseload From FY 78-79 To FY 89-90

Year	<u>601</u> (Delinquency)	<u>602</u> (Criminal)	<u>707</u> (Removal to Adult Jurisdiction)	<u>300</u> (Dependency)	<u>Total</u>
78-79	127	2,119	N/A	225	2,471
79-80	141	1,410	19	325	1,895
80-81	145	2,118	15	197	2,475
81-82	130	2,470	12	202	2,823
82-83	89	2,217	8	320	2,250
83-84	30	2,181	0	39	2,250
84-85	66	1,944	5	522	2,537
85-86	--	1,927	2	869	2,798
86-87	--	2,054	1	825	2,880
87-88	--	2,501	2	806	3,309
88-89	--	2,415	4	--	2,419
89-90	16	2,130	11	6	2,163

2. Commitments to California Youth Authority--Public Defender Cases

78-79	--	96	84-85	--	31
79-80	--	81	85-86	--	36
80-81	--	89	86-87	--	16
81-82	--	90	87-88	--	29
82-83	--	65	88-89	--	13
83-84	--	86*	89-90	--	12

3. Commitments to Log Cabin--Public Defender Cases

79-80	--	136	85-86	--	130
80-81	--	95	86-87	--	123
81-82	--	102	87-88	--	97
82-83	--	103	88-89	--	126*
83-84	--	113	89-90	--	96
84-85	--	128			

*All cases--P.D. and non-P.D. cases.

CYA Commitments

The San Francisco Probation Department has reported that the number of commitments by the Juvenile Court to the California Youth Authority has fallen to a ten-year low. Although law and order advocates may view this with alarm, many other people understand this trend as a preferred use of community-based alternatives by the court. The court, instead of being prone to send useful offenders to a maximum incarceration facility, seeks to find placements in the city that will attempt to grapple with the young person's individual problems.

C.Y.A. is often cited as a model facility, with top correctional personnel, including social workers and psychologists. Despite its best efforts, it has a recidivism rate of 65%.

The San Francisco Public Defender's Office has a social worker funded through the A.B. 90 program - a state subsidy to the counties for youth rehabilitation programs. In the person of Marynella Woods, this social worker has done an exceptionable job of identifying placements in lieu of incarceration. She has been instrumental in reducing incarceration of our clients in both the Log Cabin facility at La Honda, California and C.Y.A.

MENTAL HEALTH UNIT

The Public Defender is the principal attorney in the community for the mentally ill. Most of the work of the Mental Health Unit, supervised by Estella Dooley, is done in the defense

of petitions to establish mental health conservatorships pursuant to Section 5500 of the Welfare and Institutions Code. This conservatorship petition is the legal procedure for establishing judicial control over a person who is alleged to be a danger to himself or others or who is gravely disabled to the extent of lacking the ability to provide food, shelter, and care for himself/herself. If the petition is granted, an individual may be placed in a state hospital or in a local facility, whichever the court deems appropriate.

In these cases, the Public Defender is appointed to represent the proposed conservatee. As the attorney for the proposed conservatee, the Public Defender must review the medical reports, witnesses' statements, and explore alternative placement if the client contests the allegations of the petition.

The Mental Health Unit also represents mentally-ill clients who have been sent to state hospitals. These involve conservatees committed under Section 5500 of the Welfare and Institutions Code who have a right to periodic review of their status and their treatment, clients who have been found incompetent to stand trial under Sections 1368-70 of the Penal Code, those who have been found not guilty by reason of insanity under Section 1027 of the Penal Code, mentally disordered sex offenders pursuant to Section 6300 of the Welfare and Institutions Code, and mentally retarded

dangerous persons under Section 6500 of the Welfare and Institutions Code.

These clients must be regularly visited and interviewed. If the state hospital makes an inappropriate recommendation for a patient, the Public Defender must bring that fact to the attention of the court. If it is necessary, a jury trial may be held to determine whether or not a person should be kept in a state hospital or whether or not his/her parole should be revoked.

TABLE H

Mental Health – 7/1/89 - 6/30/90

14 Day Certification		1,190
Medication review hearings (Rlese)		108
Found incompetent	58	
Found competent	15	
Petition withdrawn	16	
No probable cause	9	
Compromised	6	
Writs of Habeas Corpus		239
Granted	26	
Denied	92	
Withdrawn	121	
New Conservatorships		816
Granted	263	
Denied	552	
Total Appearances	995	

Conservatorship Renewals		619
Granted	476	
Denied	127	
Total Appearances	779	
Terminations		113
Rehearings		53
Released	15	
Held	26	
Withdrawn	12	
Medical Consents		48
Granted	36	
Denied	12	
Appearances	84	
Electroshock Hearings		3
Granted	2	
Denied	1	
Progress and Placement Reports		284
Change Conservator Hearings		13
Placement Hearings		28
Placement change ordered	23	
Placement remained	5	
Probate Code 3200 Cases		21
Total Civil Cases		3,535
Penal Code 1026.2(E)		13
Granted	1	
Denied	2	
Withdrawn	7	
Pending	3	
Penal Code 1600 Hearings		39
Total Criminal Hearings		71

RESEARCH UNIT

The Research Unit is located on the second floor and contains a computer room, a library, and two offices. Head Attorney Grace L. Suarez supervises a staff consisting of one attorney and one paralegal. The physical plant contains six computers, four printers, and one scanner. The computers are used both by Unit personnel and by the Office's attorneys and their interns. They contain electronic copies of the Office's entire forms library, as well as recent case summaries. The Library contains several hundred case and practice books, as well as a microfiche reader-printer, and a copy machine. The Briefs and Documents Bank is located here, which contains hundreds of sample motions, writs, and appeals. The index is maintained on computer. One computer has access through modem to the Westlaw computerized research databank and the California Public Defenders Association C.L.A.R.A. system. New to the library this year is a set of the second edition of the Federal Reports in microfiche. This addition was made necessary by the passage of Proposition 115, which eliminated the precedential value of many California court opinions.

Much of the Unit's efforts and resources this year was spent preparing the Office to grapple with the most fundamental and

wide-ranging changes to California criminal law ever implemented at once: the expected passage of Proposition 115.⁵

The Unit prepared a lengthy Practice Guide, currently in its second edition. In addition, it held a training session on the initiative for all members of the Office, and prepared two new sets of motions totalling over 100 pages for the use of the trial attorneys.

Accumulation of material on the initiative from other sources began, and the Office's library now contains copies of virtually every syllabus, article, and analysis on the subject.

Unit attorneys organized and conducted other training sessions, which received ten hours of specialization credits from the State Bar: homicide and felony sentencing on June 22; juvenile law and search and seizure on July 13; speedy trial and prior convictions on August 24; child molest and forfeitures on September 14; and defenses and homicide (part II) on October 5.

The constitutionality of Proposition 96, one of the AIDS testing laws, was challenged in extensive evidentiary hearings and in writ proceedings in the Court of Appeal, resulting in a published opinion (Johnetta J. v. Municipal Court (1990) 281 Cal.App.3d 1255).

Unit personnel continued to support the Office's computer users, arranging for training and answering numerous questions.

⁵ *This effort was justified when the initiative passed on June 5, 1990.*

The two attorneys and one paralegal prepared 124 appeals, writs, motions, and other documents for the trial attorneys, and advised the lawyers on hundreds of issues. The changed nature of the practice is reflected in less requests for routine motions, such as motions to suppress evidence. The difficulty of the issues has increased, however, and the need to research federal cases and decisions of other states add to the time spent on each request.

The Unit continued to publish its monthly newsletter, as well as many memos on issues of current interest.

The work of the Unit helps assure the quality of the trial attorneys' representation. Trial practitioners can submit well-researched and drafted motions, and seek pretrial writ relief within hours of the motion's denial. The work of the Unit is particularly important during times of revolutionary changes in the law. The last half-dozen years have seen the passage of Proposition 8 and Proposition 115, both of which fundamentally changed the practice of criminal law in California. With the help of the Unit, attorneys have been able to keep up with these massive changes.

INVESTIGATIVE UNIT

The Investigative Unit consists of 11 investigators and 3 clerks and is supervised by Principal Attorney, Robert Evans. The Unit carries out investigation for our Felony, Misdemeanor, Juvenile, and Mental Health Units. In Fiscal Year 1988-89 the Unit

conducted the following work for the Misdemeanor and Felony Units.

	<u>Requests</u>	<u>Interviews</u>	<u>Subpoenas</u>
Misdemeanor	494	1,175	516
Felony	<u>709</u>	<u>1,442</u>	<u>842</u>
	1,203	2,617	1,358

An investigator starts working on a case when an attorney makes a written request. The request may ask that a witness be located and interviewed, that the crime scene be photographed, and/or that a document be located. A suspense date is set for the completion of the investigation. Supplementary requests may be made. The same investigator will be assigned to the case throughout the life of the case.

Solid and competent investigation is absolutely essential to effective representation. It can literally win the case for the lawyer. It can provide the exculpatory evidence which proves a client's innocence. It can find those facts which contradict the prosecutor's case.

OTHER MATTERS OF INTEREST

Conflicts

The Public Defender is required to represent all persons accused of crimes who do not have enough money for their counsel. However, cases arise where the Public Defender cannot represent an accused who does not have funds for his own

counsel. For example, there may be more than one person charged in a case, and the Public Defender can only represent one person. In that case, the Public Defender declares a conflict-of-interest, and a separate, private attorney will be appointed. Conflicts can arise also where a public defender client becomes a witness against another public defender client. In that case, one or the other will have to have separate non-public defender counsel.

We have sought to limit declarations of conflict-of-interest to those situations required by law and ethics. In multiple defendant cases, we usually represent the "heaviest" defendant--the one whose case requires the most work.

Conflict costs are expensive. What is more, a Public Defender who shies away from serious cases by finding a farfetched reason for a conflict does a disservice to his statutory responsibilities. The following table states the number of conflict cases, as well as the costs, over the last several years.

TABLE I**Conflict Cases****Conflict Costs**

<u>Year</u>	<u>Municipal Court</u>	<u>Superior Court</u>	<u>Total</u>
82-83	605,822	794,992	1,400,814
83-84	600,719	840,201	1,440,920
84-85	508,893	968,707	1,477,602
85-86	1,064,647	1,080,848	2,145,495
86-87	921,935	1,383,426	2,305,361
87-88	1,029,190	1,545,164	2,574,354
88-89	1,143,933	2,310,460	3,454,393
89-90	1,094,049	2,699,729	3,793,778

Number of Conflict Cases

<u>Year</u>	<u>Municipal Court</u>	<u>Superior Court</u>	<u>Total</u>
82-83	2,096	1,111	3,207
83-84	1,532	1,025	2,557
84-85	1,432	787	2,219
85-86	2,417	1,460	3,877
86-87	2,007	1,841	3,848
87-88	2,465	2,373	4,836
88-89	3,220	3,858	7,078
89-90	1,920	4,289	6,209

The figures in Table I are based on data provided by the Municipal and Superior Courts. The following is a breakdown of the various cases handled by the Superior Court (which are reflected in the totals above).

Costs and Types of Superior Court Conflict Cases

Criminal	\$1,298,910	1,684
Mental Health	\$58,522	n/a
Juvenile	\$1,334,495	2,605
Dependency	\$934,285	2,046
Delinquency	\$400,210	559

Volunteer Attorneys

For over ten years, the Public Defender's Office has benefited from the volunteer participation of Pillsbury, Madison & Sutro and Morrison & Foerster. Recently, our volunteer staff has been joined by members of the law firm of Heller, Ehrman, White & McAuliffe. For stints up to six months, an attorney from one of the nation's most prestigious firms works in our office handling misdemeanor and felony cases. The quality of their work has been outstanding, reflecting the excellence and public spirit of their firm and themselves individually. We all owe a great vote of thanks to these fine lawyers.

We would like to acknowledge the contribution of each of the attorneys and their firms in the last year:

Pillsbury, Madison & Sutro

Lisa Saveri

Paula Weber

Charles Novack

Nancy Cox

Chris Byers

Dale Lysak

Heller, Ehrman, White & McAuliffe

Sergio Garcia

Skadden, Arps, Slate, Meagher & Flom

Albert Boro, Jr.

Death Penalty Funding

On September 30, 1990 Governor Deukmejian vetoed A.B. 2813 which would have appropriated \$13 million for reimbursement to the counties for the cost of death penalty defense of indigent defendants. The Governor's action ended a 12-year subsidy to the counties in California which permitted them to pay for experts and witnesses in the defense of capital cases.

This subsidy did much to insure that wherever a defendant was tried in California, in a rich county or a poor county, the accused would have sufficient means of presenting his or her case.

Death penalty cases are exceeding complex. They involve two distinct phases -- the guilty phase, where the jury must decide

(1) the defendant's guilt, as well as whether certain facts, as predicated by eligibility for death penalty prosecution, did occur; and (2) the penalty phase where the jury must decide, after having found the defendant guilty of the death penalty offense, whether the death penalty should be imposed. The trial requires the most thorough factual investigation possible, and it requires a knowledge of the latest developments in criminology, chemical testing, psychiatry, and even statistics. The attorney must be completely knowledgeable on the law in a field which has grown into a specialty. And the attorney must be prepared, after exhaustive efforts, to present any facts that might mitigate against the imposition of the ultimate penalty.

The Governor's veto does not relieve the community or the attorney of any duty to provide this kind of very expensive representation. But it does hamper the ability of counties to provide it. Without the money, county governments will resist defense attempts to secure funds for a competent defense. The resistance will ultimately cause a reluctance by judges to make such orders.

In sum, the Governor's veto seriously threatens the future of competent death penalty representation. The San Francisco Public Defender has four death penalty cases, including the case of Richard Ramirez, who is accused of being the "night stalker." We will make every effort to represent those four defendants with the

same vigor and diligence we have in the past. Let us hope that judges will continue to order the funds from the county treasurer to do the job. Let us hope that a new governor will sign legislation that will reinstate the subsidy so that all counties can meet their responsibilities under the law.

Proposition 115

Proposition 115 was passed by California's voters on June 5, 1990. The measure is a comprehensive, wholesale revision of California's Criminal Law and Procedure.

Proposition 115 abolished virtually every independent protection for criminal defendants which had been provided under California's constitution. As a result, California's courts can give no greater protection than that provided in the federal courts.

In addition, the measure provided:

1. In preliminary hearings, hearsay may be used and the defense's ability to call witnesses is curtailed.
2. The judge, and not the lawyers, shall question prospective jurors for trial.
3. Limits defense access to discovery of prosecution information and requires the defense to give discovery of its information to the prosecution.
4. Expanded the list of offenses carrying the death penalty.

5. Restricted the ability of the defense to obtain continuances in order to prepare cases and penalizes lawyers for inability to comply with the new time requirements.

6. Restores the use of the Grand Jury in felony cases thus doing away with preliminary hearings where the prosecution chooses.

Impact

In the months since its enactment, Prop. 115 has had a limited effect. Judges have taken over the role of questioning potential jurors. There has been one hearsay preliminary hearing which was found to be defective by the Superior Court. The District Attorney apparently does not feel that there will be many hearsay preliminary hearings until report writing by members of the police department shows major improvement.

But over time, this measure will have a radical effect upon the entire criminal justice system of California. The result upon the San Francisco Public Defender's Office will be to significantly alter the manner in which Public Defenders carry out the individual representation of their clients.

Affirmative Action

Affirmative Action continues to represent a major goal for 1990-91. The Office of the Public Defender represents in great number individuals from minority backgrounds. The presence of attorneys from ethnic, social, and economic backgrounds of the

client community assists the lawyer-client relationship by developing more of a relationship of trust. It is also an important statement of this office's commitment to equal opportunity. At the present time, 41.8% of the lawyers are of minority ethnic groups, and 46.3% are women. In addition, this office has a substantial presence of Gay and Lesbian attorneys. Although the minority composition of our office is already in compliance with workforce standards, and is, in fact, at parity with the adult population of the City, in 1990-91, it is our intention to increase minority presence in this office, and we are confident that we can do it.

As of October 10, 1990, of the 71 attorneys on staff, the ethnic minority breakdown consists of: Asian (8), Black (8), Filipino (4), Hispanic (8), and one Palestinian.

Training

Training is an essential part of the life of any respectable public defender's office. It is the means by which basic information about the work and the law is conveyed to new attorneys and other staff. It is also imperative for the continuing education of the staff. Developments of law and forensics occur so rapidly and continuously that it is virtually impossible for the individual practitioner to keep apace by himself or herself.

Training, for that reason, has become an integral part of the operation of the San Francisco Public Defender's Office, and has been since the early 1980s. It takes on three different modalities:

(1) On-the-job. This consists of breaking the attorney or other staff person into the work he or she will be doing. It is important that the individual not just be "shown the ropes," but also be given feedback with both formal and informal evaluations. Additionally, there are training and resource materials.

(2) In-house. The Office provides educational sessions on developments of law, forensics, or other issues relating to our work. This is usually structured with instruction and questions. We have also been able to provide simulated courtroom presentations.

(3) Out-of-office. The individuals attend seminars put on by professional associations. The California Public Defenders Association provides scholarships to seminars they present.

Ideally, training will equip the staff person with sufficient preparation for the demands of the job. More likely, it will break the isolation the individual has in doing the job, showing different approaches and allowing the staff member to share his or her experiences. Training mightily contributes to the elan of the organization.

In 1989-90, the Public Defender's Office provided and participated in a score of formal training sessions. Table J details them.

TABLE J
TRAINING

Office-Wide Seminars

7/13/89	Search and Seizure Juvenile Law	Scott Spear Patti Lee
8/24/89	Speedy Trial Prior Convictions	Ron Albers Brendan Conroy
9/14/89	Drugs Forfeitures	Jeff Brown
10/5/89	Defenses Homicide Part II	Stephen Rosen Michael N. Burt
12/1/89	Document Examiners and Handwriting Experts	Marcel Matley
1/4/90	The Use of Expert Witnesses in Drug and Alcohol Related Defenses	Stephen M. Pittel
2/15/90	1990 Criminal Statutes	Grace L. Suarez Robin Levine Robert Berman Daro Inouye
6/13/90	Federal Discovery Practice	Bill Goodman
6/20/90	Proposition 115	Grace L. Suarez

Misdemeanor Division Seminars

10/12/89	Writ & Appellate Procedures	Grace L. Suarez
10/26/89	Defenses	Stephen Rosen
11/8/89	Evidence	Ron Albers
2/1/90	Jail Psychiatric Services	Karen Cotton Derek Lott
6/6/90	Proposition 115	Ron Albers Robin Levine

Private Seminars to which we obtained scholarships

7/12-7/15/89	California Public Defenders Association (CPDA) Trial Skills Institute, San Diego	
8/19/89	CPDA Child Molestation Seminar, Napa	
9/2/89	CPDA Sentencing Seminar, San Francisco	Program Coordinators: Jeff Brown & Grace L. Suarez
12/9/89	California Attorneys for Criminal Justice (CACJ) Creative Criminal Defense, San Francisco	
12/9/89	CPDA Driving Under the Influence Seminar, San Francisco	
3/10/90	CPDA Advanced Felony Practice Seminar, San Francisco	
6/16/90	CPDA Driving Under the Influence Seminar, San Francisco	
6/30/90	CPDA Basic Misdemeanor Practice Seminar, Los Angeles	

Specialization Credit

With regard to the seminars listed as "office-wide" seminars, State Bar Criminal Specialization credit of two units per session was requested for the seminars held on 7/13, 8/24, 9/14, and 10/5/89.

Specialization credit of three units was requested for the seminar held on 2/15/90.

All of the above requests were granted.

Word Perfect (Computer) Training

Grace Suarez of this Office conducted in-house Word Perfect training sessions for the employees of this office that commenced 9/7/89.

This Office also enrolled employees in both basic and advanced Word Perfect training provided by the City and County's Information Services Division.

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**OFFICE OF THE PUBLIC DEFENDER
CITY AND COUNTY OF SAN FRANCISCO
1989-90 FISCAL YEAR**

SUPPLEMENT TO THE ANNUAL REPORT

***Jeff Brown
Public Defender***

***Peter G. Keane
Chief Attorney***

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**SUPPLEMENT OF DETAILED INFORMATION
TO ANNUAL REPORT OF THE
OFFICE OF THE PUBLIC DEFENDER**

1989-90

Preface

This Supplement to the Annual Report is a collection of statistical information about the Public Defender workload and the workload of the court system. Some of the information from other agencies will provide the reader with a comparison of statistical information provided by the Public Defender -- a sort of "reality check." Other material is simply far too detailed to be included in the commentary of the Annual Report.

TABLE I

All Felony Cases (New) - Muni and Superior Court

	<u>83-84</u>	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>	<u>87-88</u>	<u>88-89</u>	<u>89-90</u>
Arraignments - Muni Court*	5,982	6,550	7,412	7,166	8,806	7,670	7,042
Informations - Superior Court**	1,920	1,731	1,582	N/A	1,772	1,812	1,907
Certified Pleas Superior Court**	1,129	1,250	1,802	1,929	2,491	3,508	2,875
Certified Pleas Muni Court*	1,111	1,400	1,563	1,929	2,564	3,449	2,806

*Source: Municipal Court Judicial Council Statistics

**Source: Clerk, Superior Court

TABLE II

Average Number of Public Defender Trial Cases Pending in Superior Court

	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
	174.2	195.21	195.42	210	177.25	213.09	227.89	188

(as of 10/3)

(Source: Court Management System)

Comment: (Table I)

Table I sets forth the intake of new felony cases by the Municipal and Superior Courts for the years between Fiscal Years 83-89 and 89-90.

The arraignments in the Municipal Court is the number of felony complaints filed by the District Attorney.

The Superior Court intake consists almost entirely of (1) informations - cases filed by the District Attorney after a preliminary hearing, (2) certified pleas of guilty - cases where a plea has been entered in the Municipal Court, where the Superior Court will render a sentence.

Table I does not include felony motions to revoke probation. Only recently has the Superior Court started to count those as a separate statistical category.

The data set forth in Table I parallel Public Defender data during those years. The caseload for new felonies grew steadily between Fiscal Years 83-84 and 86-87; then took a sharp rise during Fiscal Year 87-88 at the height of undercover activity by the San Francisco Police Department against those using and selling drugs. In Fiscal Years 88-89 and 89-90, the police efforts leveled off somewhat. In Fiscal Years 88-89 and 89-90, the District Attorney filed an increasing number of felony motions to revoke probation against individuals arrested for new drug charges who were on probation. Usually, the District Attorney dispensed with

a new prosecution if a motion to revoke probation could be used. This also accounts for the decline of new prosecutions in Fiscal Years 88-89 and 89-90.

Comment: (Table II)

Table II represents the number of Public Defender cases awaiting trial in the Superior Court. It is set out on an annual year basis.

In 1990 the trial cases dropped substantially after two very heavy years. This also reflects the District Attorney's policy of foregoing a new prosecution against probationers and instead pursuing motions to revoke.

TABLE III

Arrests for Opiates – Heroin-Cocaine*

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
January	---	506	765	886	600
February	---	368	682	871	546
March	---	228	980	930	699
April	---	417	815	776	390
May	---	472	789	606	301
June	---	446	788	606	275
July	---	457	741	626	307
August	389	508	807	811	386
September	354	590	848	700	369
October	377	719	832	484	
November	356	692	881	469	
December	344	682	797	553	

(Source: San Francisco Police Department)

Comment:

Table III is the number of arrests for "opiates" (heroin, cocaine, crack) by the San Francisco Police Department between August, 1986 and September, 1990. The police arrest policy from 1987 to April, 1990 had enormous impact on the workload of all justice system agencies.

**Please note that while cocaine is not an opiate, it is prosecuted under the same code sections of the California Health and Safety Code as is heroin; therefore, they are frequently counted together as in the table above.*

TABLE IV**State Prison Commitments****A. Persons Committed to State Prison**

<u>Year</u>	<u>San Francisco</u>	<u>California</u>
1979	525	9,874
1980	593	11,347
1981	841	13,932
1982	724	15,932
1983	634	18,398
1984	646	17,602
1985	880	20,543
1986	846	23,466
1987	933	26,535
1988	1,123	29,551
1989	1,410	34,226

(Source: California Department of Corrections)

B. Cases Where There Is a State Prison Commitment

<u>Year</u>	<u>San Francisco</u>	<u>Percent of Total Sentences</u>	<u>California</u>	<u>Percent of Total Sentences</u>
1979	517	29.3	8,878	25.3
1980	467	23.3	10,311	26.5
1981	795	31.7	13,971	30.4
1982	759	33.7	25,122	32.5
1983	756	31.5	16,677	34.7
1984	841	33.2	18,094	34.6
1985	938	34.7	21,421	33.7
1986	858	31.4	24,210	34.6
1987	883	29.9	25,029	34.5
1988	921	22.2	25,887	33.2
1989	1,180	26.2	29,089	33.5

(Source: Adult Felony Dispositions - Department of Justice)

Comment:

Table IV is in two parts. Part A is a chart showing the number of persons received at the Department of Corrections from San Francisco and into the state prisons from throughout California between 1979 and 1989.

Part B shows the number of state prison cases in San Francisco and California between 1979 and 1989.

There are statistical differences between Parts A and B that reflect a different selection criterion, as well as the typical counting differences doing much the same thing. However, both evidence similar trends.

Most noticeable is the sharp increase in state prison cases in 1989. That, we think, has much to do with the increased use of felony motions to revoke discussed in the Annual Report.

TABLE V

Juvenile Court Caseloads and Filing (All Cases)

**Department of Justice: Active Juvenile Probation
Caseload 1972-1988**

1972 - 1,997	1978 - 1,119	1984 - 1,208
1973 - 1,956	1979 - 1,333	1985 - 1,291
1974 - 2,004	1980 - 1,313	1986 - 1,287
1975 - 1,940	1981 - 1,259	1987 - 1,255
1976 - 1,837	1982 - 1,385	1988 - 1,200
1977 - 1,144	1983 - 1,348	

Judicial Council Reports: Juvenile Court Filing

<u>Year</u>	<u>Total Filings</u>	<u>Original Filings</u>	<u>Subsequent Filings</u>	<u>Contested Matters</u>	<u>601 W&I</u>
76-77	2,355	1,597	758	480	209
77-78	2,017	1,484	533	437	172
78-79	2,130	1,467	653	516	93
79-80	2,116	1,426	690	621	132
80-81	1,933	1,178	755	556	119
81-82	2,295	1,388	907	530	87
82-83	2,356	1,128	1,030	305	49
83-84	2,158	1,278	1,078	270	71
84-85	1,982	1,533	449	235	19
85-86	1,981	1,618	363	221	16
86-87	1,730	998	732	262	34
87-88	2,032	988	1,144	209	148
88-89	2,032	1,026	1,306	113	68
89-90	2,206	1,007	1,198	211	7

TABLE VI

Persons Accused of Non-Traffic Misdemeanors in Municipal Court

1979-80	15,131	1985	15,495
1980	17,510	1985-86	15,206
1980-81	14,322	1986	14,656
1981-82	20,091	1986-87	13,417
1982	18,276	1987-88	11,172
1982-83	14,418	1988-89	12,985
1983	11,563	1989-90	11,621
1983-84	12,281		
1984	13,831		
1984-85	15,399		
		11 yr. av. -	14,186
			(FY only)

(Source: Judicial Council Reports of Municipal Court)

Comment:

Table VI is the number of non-traffic misdemeanors in the Municipal Court. Table VI is drawn from the Court's own reports. The trends shown here and in Public Defender statistics is clear: there is a significant decline in recent years of misdemeanor cases coming into the courts.

List of Jury Trials in Municipal and Superior Courts by Public Defender Attorneys

Comment:

The following pages contain the list of misdemeanor and felony cases tried by deputy public defenders. The notation is:

G for Guilty

NG for Not Guilty

Mist for Mistrial

"Quarter" means the quarter of the fiscal year it was tried. The first quarter would be July 1 to September 30, for example.

FELONY TRIALS

Attorney	Defendant	Case	Charge	Verdict	Quarter
ADACHI	DUCU, ROBERT	1160340	261/288A/289	G	1
	WESTON, THEODORE	134622	261/288/212.5	MIST	3
	CLARKE, JEFFREY	1212646	212,5/69	G	4
	McCOY, DAVID	1006469	11351	G	
	McHENRY, MICHAEL	1187768	12021	MIST	
	TILLIE, KAREN	1223345	11352	NG	
	WESTON, THEODORE	1189194	261/288/212.5	G	
Count:		7			
AMABILE	BROWN, AARON	1170705	591/602	G	1
	PALMA, LUIS	1083301	459	MIST	
	FORT, SHIRLEY	1179168	647B	G	
	RAY, SANDRA	1172041	666	G	
	HIXON, RISA	1171747	23152	G	2
	BOURBON, VICTOR	1182480	23152	G	
	THOMAS, ALBERT	1195664	243B	NG	
	KENNEDY	1181333	23152	NG	3
	ALLUMS, STEVEN	1211185	243/11364/148	G	
	STITTS, MARK	1219385	273.5/245	G	4
DEBARDELEBEN, KELLY	1194830	647B	G		
Count:		11			
BISHARAT	WATSON, DONALD	1219131	459	MIST	3
	KESE, TOGIA	1198005	212,5/10851	G	
	ANAYA, RICHARD	134462		MIST	
Count:		3			
CAFFESE	VIGIL, SELINA	1122509	23152/14601.1A	G	1
	STEWART, DIRK	1231628	11350	G	4
Count:		2			
CAPRIOLO	LARVELL, RICHARD	1228113	11352	MIST	4
Count:		1			
CHAN	DAVIS, RODNEY	1181656	212,5	G	2
	JOHNESE, ALBERT	1126521	11359	G	
	MCCARTY, MICHAEL	1187842	459	G	
	QUINONES, MARTIN	1180758	11350/11351	G/NG	3
	GASCA, ALBERTO	1192295	11377	G	
	LUCNG, TUONG, UNG	1171876	288 A&B	G	4
CONRADO, PHILLIPE	1216388	459	G		

Attorney	Defendant	Case	Charge	Verdict	Quarter
CHAN	JACKSON, MARK	1219840	212,5	MIST	4
Count:			8		
CHAN, R	LOIODICI, JOSEPH	1134575	417A/136.1	NG	1
Count:			1		
CHIEN	DOLLEN, JASON	1118524	10852	MIST	2
	RAMIREZ, ERNESTO	1204841	23152/14601	MIST	3
	STERLING, DENITA	1220741	647B	NG	4
	BUNCUM, KENNETH	1139214	273a2/242	G/NG	
	LIVINGSTON, MARK	1094936	23152/23103/2800.1	NG	
Count:			5		
COHEN	NUEVA, EUGENE	1172647	23152 A&B	G	2
	FRANK, THOMAS	1172409	23152 A&B	G	
	DIXON, JOHN	1203781	417.2/242	MIST	3
	PACHECO, MARIO	1209006	23152 A	NG	4
	REEVES, RODNEY	1202938	14601.1(A)	MIST	
Count:			5		
CONROY	LABELLE, FRANK	1158670	245/20002	G	0
	ARIAS, ALEJANDRO	1137858	261,2/288/236	NG	1
	SKINNER, CORY	1187757	192/245/246	NG/G	2
	PRIETO, HARRY	1179052	187	MIST	3
	HILTON, ANDRE	1135590	11352	MIST	4
Count:			5		
COX	JONES, MICHAEL	1224578	10851/23152/20002	NG/MIST/G	4
	SANCHEZ, PAUL	1232065	417	NG	
	KUMAR, AVINDO	1226924	243.4	G	
Count:			3		
CRESPO	MURPHY, JOHN, B	1222233	459/212.5	NG	4
	DYCUS, WENDELL	1217819	459/446	G	
Count:			2		
CROSBY	SMITH, SHAWN	1186960	11350	NG	2
	HARRIS, MICHAEL	1210264	11352/182	G	4

Attorney	Defendant	Case	Charge	Verdict	Quarter
CROSBY	WOOTEN, DANNY	1219687	11350	G	4
	RODRIGUEZ, JULIO	1215555	212,5	G	
Count:		4			
DAVIS	BENNETT, CHARLES	1197905	212,5/459	G	2
	CLEMENTE, RAMON	1213152	11352	G	3
	AKINS, REGINALD	1202237	11351	G	
	WOODS, RICHARD	1176934	664/187/245/192	G	4
Count:		4			
DEJESUS	HARRINGTON, THOMAS	1146714	459	G	1
	QUINTEROS, WALTER	1158391	602,5/466	G	
	GONZALEZ, GILBERTO	1174048	11377	G	2
	CARTER, WILLIAM	1197091	192	NG	4
	JOHNSON, ERIC	1159972	11351/148	G	
RIZZO, SALOMON	1211783	12020/212.5	G		
Count:		6			
DEWBERRY	WILLIAMS, WASH	1200369	261/236	G	3
	CASELLA, PHILIP	1199137	23153A&B	G	
		MORRIS, SYLVANNA, V	1203538	212.5/11364	G
Count:		3			
FERNANDEZ	ARCE, FRANK	1172686	11550	NG	1
	VELASQUEZ, ALEX	1155019	245A(1)	MIST	
	KETTUD, KANSHAI	1136909	23152	G	2
	ARCE, DANIEL	1184187	23152 A&B	NG	
	DELCAMPO, MICHAEL	1151562	245	MIST	NG
	PARKER, ANTHONY	1175226	23152(a)		
	WASHINGTON, BRUCE	1165901	415/148	NG	
	Count:		7		
FORSYTHE	WILSON, SYLVESTER	1147025	212,5	MIST	1
	SANDLES, ANTHONY	1160590	664,212.5/245	G	
	DANIELS, REGINALD	1137722	11351/148	G	2
	WILSON, SYLVESTER	1147025	212,5	G	
	ANGELO, LONNIE	1200507	245	NG	3
		SMITE, EARL	1219102	245,273.5	G

Attorney	Defendant	Case	Charge	Verdict	Quarter
Count:			6		
GAUGER	ARCHANGEL, JUAN	1110936	187/192A, 664/245A	G	1
	CALLIER, THEODORE	1151309	664/187/245GBI	MIST/G	
	MAAS, PATRICIA	1206172	484/490.5	G	3
	WARD, STEVEN	1212381	23152 A	NG	4
Count:			4		
GOLDROSEN	ENG, DENISE	1101843	187	G	2
Count:			1		
GONZALEZ	SMITH, PAUL	1151099	11350	MIST	2
Count:			1		
GRIFFIN	TYLER, GREGORY	1191409	459	G	2
	GREEN, LAMAR	1200921	11351	G	3
Count:			2		
HECKMAN	BUTLER, SHARON	1176112	11351	G	1
	TUGGLE, STEVEN	1180350	664/187/136	G	2
	IRVING, SHAWN	1201238	246	NG	3
	GRAVES, PHILIP	1212024	12021/417/12031	G	
	ENGLISH, BARBARA	1229836	664/187/245	G	4
Count:			5		
IVERSON	RISLEY, CLARA	1160155/1152428	647B	G	2
	SIMPSON, LUTHER	1152657/1149112	12020/653(K)	NG	
	SCHLAFKE, WILLIAM	1193004	594/148	G	3
	LAUBENTHAL, JON	1161378	666	G	
	KENNEDY, KENNETH	1214356	23152 A&B	G	4
Count:			5		
KAPLAN	SANDERS, MACK	1151361	212,5	G	1
	RICE, SAMUEL	1089229	192	G	
Count:			2		
LECKLIKNER	GOMEZ, BORIS	1230946	212,5	G	4
Count:			1		

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Attorney	Defendant	Case	Charge	Verdict	Quarter
LLORENTE	LANG, VAN, NGUYEN	1095620	212,5	G	3
	LOPEZ, MARVIN	1213932	11352/182	G	4
Count:			2		
LOWINGER	IVY, JOHN	1163374	212,5/459	NG	1
	BROWN, LEONARD	1185940	273	G	3
Count:			2		
MAAS	GOLDSTEIN, ERIC	1156079	11350/11351/11352	G	1
	MATTEONI, BART	1177125	242	NG	2
	ROCHA, RAFAEL	1211217	245/273/243	G	4
Count:			3		
NICCO	ADDI, NELSON	1140254	207/10851/240	G	2
	WOODS, ROBERT	1180781	212,5	G	
	JOYCE, SEAN	1211749	12031	MIST	4
Count:			3		
NOVACK	ALLUMS, STEVEN	1215755	487.2	G	3
Count:			1		
OHRBACH	CALKINS, GARY	1171128	459/245/666	MIST	1
	DOUGLAS, GARY	1156947	459/10851/496.1	G	
	FRYE, JCNATHAN	1208920	212,5/245	G	4
Count:			3		
PERDUE	ORELLANA, LUIS	1167218	23152B	G	1
	SPEECH, ABRAHAM	1169822	242	NG	
	MARIN, FRANK	1132474	417a	MIST	
	CURTIS, GREGORY	1151245	23152A/14601.1A	G	
	MELINQUIAS, VIRAY	1185474	23152	MIST	2
	CONLEY, LISA	1166437	647B	G	3
	BAISLEY, LAWRENCE	1209717	273.5/242	NG	
	FEEES, EENTON	1183844	23152A	G	
	MEYERS, MARTY	1207375	273.5/242	NG	
	MARTINEZ, VICTOR	1190922	23152 A&B	NG	
ARAMBULA, EDDIE	JUSTIN, LINDA	1263916	23152(A)	NG	4
	CONSTANT, RICHARD	1201160	21950/192	NG	
		1222776	273.5/242	G	

Attorney	Defendant	Case	Charge	Verdict	Quarter	
Count:		13				
QUINONES	McCANTS, WILLIAM	1172137	242/404	G	1	
	SIKORA, JOHN	1110647	23152A&B	G	2	
	GLOSEN, CHARLES	1193201	666/148/417	G	3	
	HAYNES, LANCE COYLE, JOHN	1226588 +6 cases 1190231	537A/484/459 23152 A	G G	4	
Count:		5				
RAPPAPORT	MOLINA, ALVAREZ, CMIEN,	1172999 1164628 1170983	484/243/148 148/243 417	G G G	1	
	JACKSON, EMITT BAILEY SANRAMON, A GAMBOL, J	1168246 1153608 1175074 1187726	11550 23152 A&B 594 12025/12031	NG MIST MIST G	2	
	HECTOR, HARRY WILTZ, STALETTO AKZAM, JOHN ABJSARA, TARCA	1207716 1202038 1183877	245/242 594 A1 23152 A&B 487/490.5	G NG G G	3	
	WILSON, WELCY BANZON, ROLANDO WARN, PETER	1225143 1216900 1239395	192 20002 417(a)(1)	G G NG	4	
	Count:		13			
	RISCHMAN	BRANNER, EUGENE	1166329	11352/182	G	1
		JONES, AARON	1168577	10851	NG	2
		ACACIO, LEON	1191072	11350/51/52	G	3
		GALLASPIE, CLARENCE	1167657	11351,5	G	4
	Count:		4			
	ROSEN	SILVER, JOHN	1196656	212,5	G	2
	Count:		1			
	ROSS	JULIUS, LYLE BAGWELL, HARRELL	1159821 1175692	192 187	G G	2
UNG, SOON		1219365	187/245	G	4	
Count:		3				

Attorney	Defendant	Case	Charge	Verdict	Quarter
ROWE	PLEMMONS, JOHN	1150590	417	G	1
	BROCKELHURST, MICHAEL	1175996	417	G	
	JONES, CLARENCE	1155378	10851	G	
	AMARJIT, SEIHI	1193282	245/12020	NG	2
	REECHIA, JOSEPH	1201988	240/242	MIST	3
	PAEZ, EDUARDO	1205141	23152 A	G	4
	NUYGEN, BAN	1211781	23152(A)	MIST	
Count:					7
SANTOS	FELL, TONI	1201222	459	G	3
	WANG, JIAN	1204794	245/664/187	G	
	LEE, ANDREW	1197235	192/12021	G	4
Count:					3
SCHENONE	DELUCCA, ROBERT	1172603	484	G	1
	TROSS, STEVEN	1178621	12025(A)	NG	2
	BARRETT, JAMES	1168672	23152 A	G	3
	ADAMS, ROBERT	1205371	314.1	MIST	
	JACKSON, LISA	1125221	192(C)(2)	MIST/1385	
	FOSTER, SIDNEY	1189695	23152 A&B/14601	NG/G	4
	DANIELS, BOBBY	1189566	1231/148/647F	NG	
	SHERMAN, LENNIE	1209255	23152 A&B	NG/G	
Count:					8
SHELTZER	PEREDES, JOSE	1107214	11350	G	2
	DELCASTILLO, RANDALL	1158062	11379	G	
Count:					2
TRUJILLO	REESE, WILLIE	1167215	245	G	1
	DISREALI, ELLISON	1151335	424, 1	G	2
	MOORE, DEMETRIUS	1206441	212, 5	G	4
Count:					3
WALLACE	ALEMAN, RUDY	1137780	245A/243/203	NG	1
	PEYSER, RANDAL, G	1158135	212, 5/10851/236/207/245	G	
	TRAN, THANH	1160900	245	NG	2
Count:					3

Attorney	Defendant	Case	Charge	Verdict	Quarter
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WEBER	COLLINS, MICHAEL	1135365	23152	G	1

Count:					1
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Count:					184

MISDEMEANOR TRIALS

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Attorney	Defendant	Case	Charge	Verdict	Quarter	
AMABILE	BROWN, AARON	1170705	591/602	G	1	
	FORT, SHIRLEY	1179168	647B	G		
	RAY, SANDRA	1172041	666	G		
	PALMA, LUIS	1083301	459	MIST		
	HIXON, RISA	1171747	23152	G	2	
		BOURBON, VICTOR	1182480	23152		G
		THOMAS, ALBERT	1195664	243B		NG
	ALLUMS, STEVEN	1211185	243/11364/148	G	3	
		KENNEDY	1181333	23152		NG
	DEBARDELEBEN, KELLY	1194830	647B	G	4	
STITTS, MARK		1219385	273.5/245	G		
Count:				11		
CAFFESE	VIGIL, SELINA	1122509	23152/14601.1A	G	1	
Count:				1		
CHAN, R	LOIODICI, JOSEPH	1134575	417A/136.1	NG	1	
Count:				1		
CHIEN	DOLLEN, JASON	1118524	10852	MIST	2	
	RAMIREZ, ERNESTO	1204841	23152/14601	MIST	3	
	LIVINGSTON, MARK	1094936	23152/23103/2800.1	NG	4	
	STERLING, DENITA	1220741	647B	NG		
BUNCUM, KENNETH	1139214	273a2/242	G/NG			
Count:				5		
COHEN	NUEVA, EUGENE	1172647	23152 A&B	G	2	
	FRANK, THOMAS	1172409	23152 A&B	G		
	DIXON, JOHN	1203781	417.2/242	MIST	3	
	PACHECO, MARIO	1209006	23152 A	NG	4	
	REEVES, RODNEY	1202938	14601.1(A)	MIST		
Count:				5		
COX	SANCHEZ, RAUL	1232065	417	NG	4	
	KUMAR, AVINDO	1226924	243.4	G		
	JONES, MICHAEL	1224578	10851/23152/20002	NG/MIST/G		
Count:				3		
FERNANDEZ	VELASQUEZ, ALEX	1155019	245A(1)	MIST	1	
	ARCE, FRANK	1172686	11550	NG		
	DELCAMPO, MICHAEL	1151562	245	MIST	2	

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Attorney	Defendant	Case	Charge	Verdict	Quarter
FERNANDEZ	ARCE, DANIEL	1184187	23152 A&B	NG	2
	KETTUD, KANSHAI	1136909	23152	G	
	PARKER, ANTHONY	1175226	23152(a)	NG	
	WASHINGTON, BRUCE	1165901	415/148	NG	3
Count:				7	
GAUGER	MAAS, PATRICIA	1206172	484/490.5	G	3
	WARD, STEVEN	1212381	23152 A	NG	4
Count:				2	
IVERSON	RISLEY, CLARA	1160155/1152428	647B	G	2
	SIMPSON, LUTHER	1152657/1149112	12020/653(K)	NG	
	SCHLAFKE, WILLIAM	1193004	594/148	G	3
	LAUBENTHAL, JON	1161378	666	G	
KENNEDY, KENNETH		1214356	23152 A&B	G	4
Count:				5	
MAAS	MATTEONI, BART	1177125	242	NG	2
Count:				1	
NICCO	JOYCE, SEAN	1211749	12031	MIST	4
Count:				1	
NOVACK	ALLUMS, STEVEN	1215755	487.2	G	3
Count:				1	
PERDUE	ORELLANA, LUIS	1167218	23152B	G	1
	MARIN, FRANK	1132474	417a	MIST	
	CURTIS, GREGORY	1151245	23152A/14601.1A	G	
	SPEECH, ABRAHAM	1169822	242	NG	
MELINQUIAS, VIRAY	1185474	23152	MIST	2	
CONLEY, LISA		1166437	647B	G	3
	FEEES, KENTON	1183844	23152A	G	
	MARTINEZ, VICTOR	1190922	23152 A&B	NG	
	BAISLEY, LAWRENCE	1208717	273.5/242	NG	
	MEYERS, MARTY	1207375	273.5/242	NG	
JUSTIN, LINDA		1201160	21950/192	NG	4
	ARAMBULA, EDDIE	1263916	23152(A)	NG	
	CONSTSANT, RICHARD	1222776	273.5/242	G	
Count:				13	

MISDEMEANOR TRIALS
Fiscal Year 1989-90

Attorney	Defendant	Case	Charge	Verdict	Quarter
QUINONES	MCCANTS, WILLIAM	1172137	242/404	G	1
	SIKORA, JOHN	1110647	23152A&B	G	2
	GLOSEN, CHARLES	1193201	666/148/417	G	3
	HAYNES, LANCE	1226588	+6 cases 537A/484/459	G	4
	COYLE, JOHN	1190231	23152 A	G	
Count:				-----	5
RAPPAPORT	MOLINA,	1172999	484/243/148	G	1
	ALVAREZ,	1164628	148/243	G	
	CMIEN,	1170983	417	G	
	BAILEY	1153608	23152 A&B	MIST	2
	GAMBOL, J	1187726	12025/12031	G	
	SANRAMON, A	1175074	594	MIST	
	JACKSON, EMITT	1168246	11550	NG	
	HECTOR, HARRY	1207716	245/242	G	3
	AKZAM, JOHN	1183877	23152 A&B	G	
	ABJSARA, TARCA		487/490.5	G	
	WILTZ, STALETTO	1202038	594 A1	NG	
	BANZON, ROLANDO	1210900	20002	G	4
	WARN, PETER	1239395	417(a)(1)	NG	
	WILSON, WELCY	1225143	192	G	
Count:				-----	14
ROWE	PLEMMONS, JOHN	1150590	417	G	1
	BROCKELHURST, MICHAEL	1175996	417	G	
	JONES, CLARENCE	1155378	10851	G	
	AMARJIT, SEIHI	1193282	245/12020	NG	2
	REECHIA, JOSEPH	1201988	240/242	MIST	3
	NUYGEN, BAN	1211781	23152(A)	MIST	4
	PAEZ, EDUARDO	1205141	23152 A	G	
Count:				-----	7
SCHENONE	DELUCCA, ROBERT	1172603	484	G	1
	TROSS, STEVEN	1178621	12025(A)	NG	2
	ADAMS, ROBERT	1205371	314.1	MIST	3
	BARRETT, JAMES	1168672	23152 A	G	
	JACKSON, LISA	1125221	192(C)(2)	MIST/1385	
	SHERMAN, LENNIE	1209255	23152 A&B	NG/G	4
	FOSTER, SIDNEY	1189695	23152 A&B/14601	NG/G	
	DANIELS, BOBBY	1189566	1291/148/647F	NG	

MISDEMEANOR TRIALS
 Fiscal Year 1989-90

Attorney	Defendant	Case	Charge	Verdict	Quarter
Count:				8	
WEBER	COLLINS, MICHAEL	1135365	23152	G	1
Count:				1	
===== Count:		===== 90		===== 	=====

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